

NEW JERSEY DEPARTMENT OF  
**COMMUNITY AFFAIRS**



# Optional Municipal Charter Law

N.J.S.A. 40:69A-1 et seq.

*(Current as of December 2003)*

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**40:69A:1. Election on question whether charter commission shall be elected**

(a) Whenever authorized by ordinance of the governing body or upon petition of the registered voters of any municipality, an election shall be held in the municipality upon the question: "Shall a charter commission be elected to study the charter of and to consider a new charter or improvements in the present charter and to make recommendations thereon?" The petition calling for such election shall be in the form required by subsection (b) hereof and shall be signed by the following per centum of registered voters of the municipality:

25% in municipalities of 7,000 or less inhabitants;  
20% in municipalities of more than 7,000 and less than 70,000 inhabitants;  
10% in municipalities of 70,000 or more inhabitants.

In either event, the municipal clerk shall provide for the submission of the question and for the election of a charter commission at the next general or regular municipal election, occurring not less than 75 days after the passage of the ordinance or the filing of the petition with the clerk. At the election the question above stated shall be submitted as other public questions are submitted to the voters of a single municipality.

(b) A petition under this section shall conform to the requirements of form for petitions under sections 17-37 through 17-39 hereof (except that there shall be no reference therein to any ordinance) and shall be subject to examination, certification and amendment as therein provided.

L.1950, c. 210, p. 460, s. 1-1. Amended by L.1953, c. 254, p. 1741, s. 1; L.1954, c. 69, p. 423, s. 1, eff. June 24, 1954.

**40:69A-2. Election of charter commission members at same time public question is submitted**

A charter commission of five members shall be elected by the qualified voters at the same time as the public question is submitted. Duly nominated candidates for the office of charter commissioner shall be placed upon the ballot containing the public question in the same manner as is provided by law for candidates nominated by petition for other offices elective by the people of a single municipality, except that they shall be listed without any designation or slogan. Each voter shall be instructed to vote on the question and, regardless of the manner of his vote on the question, to vote for five members of a charter commission who shall serve if the question is determined in the affirmative.

L.1950, c. 210, p. 461, s. 1-2, eff. June 8, 1950.

#### **40:69A-3. Candidates for charter commission**

Candidates for the charter commission shall be registered voters of the municipality. They may be nominated by petition signed by at least 3% or 100, whichever is the lesser number, but at no time shall such number be less than 10, of the registered voters of the municipality, and filed with the municipal clerk not less than 60 days prior to the date of the election.

(a) Each nominating petition shall set forth the names, places of residence, and post-office addresses of the candidate or candidates thereby nominated, that the nomination is for the office of charter commissioner and that the petitioners are legally qualified to vote for such candidate or candidates. Every voter signing a nominating petition shall add to his signature, his place of residence, post-office address and street number, if any. No voter shall sign a petition or petitions for more than five candidates.

(b) Each nominating petition shall, before it may be filed with the municipal clerk, contain an acceptance of such nomination in writing, signed by the candidate or candidates therein nominated, upon or annexed to such petition, or if the same person or persons be named in more than one petition, upon or annexed to one of such petitions. Such acceptance shall certify that the candidate is a registered voter of the municipality, that the nominee consents to stand as a candidate at the election and that if elected he agrees to take office and serve.

(c) Each nominating petition shall be verified by an oath or affirmation of one or more of the signers thereof, taken and subscribed before a person qualified under the laws of New Jersey to administer an oath, to the effect that the petition was signed by each of the signers thereof in his proper handwriting, that the signers are, to the best knowledge and belief of the affiant, registered voters of the municipality, and that the petition is prepared and filed in good faith for the sole purpose of endorsing the person or persons named therein for election as stated in the petition.

L.1950, c. 210, p. 461, s. 1-3, eff. June 8, 1950. Amended by L.1975, c. 372, s. 1, eff. March 3, 1976.

#### **40:69A-4. Canvass of election**

The result of the votes cast for and against the adoption of the public question shall be returned by the election officers, and a canvass of such election had, as is provided by law in the case of other public questions put to the voters of a single municipality. The votes cast for members of the charter commission shall be counted, and the result thereof returned by the election officers, and a canvass of such election had as is provided by law in the case of the election of members of the local governing body. The five candidates receiving the greatest number of votes shall be elected and shall constitute the charter commission, provided that if a majority of those voting on the public question shall vote against the election of a charter commission, none of the candidates shall be elected. If

two or more candidates shall be equal and greatest in votes they shall draw lots to determine which one shall be elected.

L.1950, c. 210, p. 462, s. 1-4, eff. June 8, 1950.

**40:69A-5. Organization of charter commission; quorum; majority required for effective recommendations**

As soon as possible and in any event no later than fifteen days after its election, the charter commission shall organize and hold its first meeting and elect one of its members as chairman, fix its hours and place of meeting, and adopt such rules for the conduct of its business as it may deem necessary and advisable. A majority of the members of said commission shall constitute a quorum for the transaction of business but no recommendation of said commission shall have any legal effect pursuant to sections 1-15 and 1-16 of this act unless adopted by a majority of the whole number of the members of the commission.

L.1950, c. 210, p. 462, s. 1-5, eff. June 8, 1950.

**40:69A-6. Vacancies in charter commission**

In case of any vacancy in the charter commission, the remaining members of such commission shall fill it by appointing thereto some other properly qualified citizen.

L.1950, c. 210, p. 463, s. 1-6, eff. June 8, 1950.

**40:69A-7. Duties of charter commission**

It shall be the function and duty of the charter commission to study the form of government of the municipality, to compare it with other available forms under the laws of this State, to determine whether or not in its judgment the government of the municipality could be strengthened, made more clearly responsive or accountable to the people or whether its operation could be more economical or efficient, under a changed form of government.

L.1950, c. 210, p. 463, s. 1-7, eff. June 8, 1950.

**40:69A-8. No compensation; expenses of commission members; consultants and assistants**

Members of the charter commission shall serve without compensation but shall be reimbursed by the municipality for their necessary expenses incurred in the performance of their duties.

Within the limits of such appropriations and privately contributed funds and services as shall be made available to it, the charter commission may appoint one or more consultants and clerical and other assistants to serve at the pleasure of the commission and may fix a reasonable compensation to be paid such consultants and clerical and other assistants.

L.1950, c. 210, p. 463, s. 1-8, eff. June 8, 1950.

**40:69A-9. Hearings; public forums**

The charter commission shall hold public hearings, may hold private hearings and sponsor public forums and generally shall provide for the widest possible public information and discussion respecting the purposes and progress of its work.

L.1950, c. 210, p. 463, s. 1-9, eff. June 8, 1950.

**40:69A-10. Report of charter commission; copies**

The charter commission shall report its findings and recommendations to the citizens of the municipality in accordance with section 1-7 within 9 calendar months from the date of its election. For this purpose it shall file with the municipal clerk an original signed copy of any final report containing said findings and recommendations made by any member of the commission. It shall also deliver to the municipal clerk sufficient copies of any such report to permit distribution to any interested citizen. The municipal clerk shall deliver a copy of any such report to each member of the governing body. If the charter commission, or any member or members thereof shall recommend the adoption of any of the optional plans of government as authorized in section 1-12(a) or 1-13, such report shall contain the complete plan as recommended.

L.1950, c. 210, p. 463, s. 1-10. Amended by L.1953, c. 254, p. 1742, s. 2; L.1960, c. 88, p. 571, s. 1, eff. July 5, 1960.

**40:69A-11. Discharge of charter commission; change of recommendation; amended report**

(a) The charter commission shall be discharged upon the filing of its report; provided, that if the commission's recommendations require further procedure on the part of the

governing body or the people of the municipality pursuant to section 1-15 or 1-16 of this act, the commission shall not be discharged until the procedure required under those sections has been finally concluded.

(b) Any charter commission which has not been discharged pursuant to subsection (a) above may, any time before the procedure required under section 1-15 or 1-16 of this act has not been finally concluded, but not later than one year from the date of the publication of its final report pursuant to section 1-10 of this act, modify or change any recommendation set forth in said final report by publishing an amended report in accordance with the provision of section 1-10 hereof.

(c) Whenever a charter commission issues an amended report pursuant to subsection (b) above, such amended report shall supersede the final report and such final report shall cease to have any legal effect under this act.

(d) The procedure to be taken under the amended report shall be governed by all provisions of article 1 of this act applicable to the final report of a charter commission submitted pursuant to section 1-10 of this act.

L.1950, c. 210, p. 464, s. 1-11. Amended by L.1953, c. 254, p. 1742, s. 3, eff. July 20, 1953.

#### **40:69A-12. Reports and recommendations**

The charter commission may report and recommend:

(a) That a referendum shall be held to submit to the qualified voters of the municipality the question of adopting one of the plans of government authorized in this act, and such of the alternative provisions as permitted thereunder, to be specified by the commission; or

(b) That the governing body shall petition the Legislature for the enactment of a special charter or for one or more specific amendments of or to the charter of the municipality, the text of which shall be appended to the charter commission's report pursuant to Article IV, Section VII, Paragraph 10, of the Constitution of 1947 and to the enabling legislation enacted thereunder to the extent that such legislation is not inconsistent herewith; or

(c) That the form of government of the municipality shall remain unchanged; or

(d) That the charter of the municipality adopted under P.L.1950, c.210 (C.40:69A-1 et seq.) be amended to adopt one of the alternative provisions authorized under the current plan of government of the municipality, in which case a referendum shall be held to submit the question to the qualified voters of the municipality in the same manner as required for an ordinance adopted to that effect pursuant to sections 7 through 11 of P.L.1981, c.465 (40:69A-25.1 through 40:69A-25.5) and sections 17-42 through 17-47 of P.L.1950, c.210 (C.40:69A-191 through 40:69A-196); or

(e) Such other action as it may deem advisable consistent with its functions as set forth in section 1-7 of this article.

L.1950,c.210,s.1-12; amended 1953,c.254,s.4; 1981,c.465,s.1; 1991,c.430,s.1.

#### **40:69A-13. Number of council members and wards; recommendations**

(a) If the charter commission shall recommend the adoption of the mayor-council plan of government or the council-manager plan of government, it may also specify that the municipal council shall consist of seven or nine members instead of five members as provided therein; or if the charter commission shall recommend the adoption of the small municipality plan of government, it may also specify that the council shall consist of five or seven members instead of three members as provided therein.

(b) If the charter commission shall recommend the adoption of the mayor-council plan of government or the council-manager plan of government it may further specify that the municipality shall be divided into two, three, four, five or six wards within the limitations hereinafter provided:

(1) Where the council is to consist of five members, the municipality may be divided into two or three wards;

(2) Where the charter commission specifies that the council shall consist of seven members, the municipality shall be divided into four wards; and

(3) Where the charter commission specifies that the council shall consist of nine members, the municipality shall be divided into five or six wards.

L.1950, c. 210, p. 465, s. 1-13. Amended by L.1953, c. 254, p. 1743, s. 5, eff. July 20, 1953; L.1973, c. 234, s. 1, eff. Oct. 24, 1973; L.1981, c. 465, s. 2, eff. Jan. 9, 1982.

#### **40:69A-14. Form of question submitted to voters**

The question to be submitted to the voters for the adoption of any of the optional plans of government authorized by this act, including any of the alternatives contained in this act, shall be submitted in the following form or such part thereof as shall be applicable:

"Shall .....(insert name of plan)..... of the Optional Municipal Charter Law, providing for (a division of the municipality into .....(insert number)..... wards, with .....(insert number)..... council members (one to be elected from each ward and ...(insert number)... to be elected at large) for .....(insert "concurrent" or "staggered" terms .....) .....at elections held in ...(insert May or November)... , with the mayor elected .....(insert "directly by the voters" or "by the council from among its members") ....., (insert, if appropriate) with run-off elections to be held thereafter if a sufficient number of



candidates fail to attain a majority of votes, be adopted by ...(insert name of municipality)... ?".

L.1950,c.210,s.1-14; amended 1953,c.254,s.6; 1973,c.234,s.2; 1981,c.465,s.3; 1989,c.221,s.1; 1991,c.430,s.2.

#### **40:69A-15. Ballots; submission of question of adoption of optional plan of government**

If the charter commission shall recommend that the question of adopting one of the optional plans of government authorized by this act shall be submitted to the voters of the municipality, it shall be the duty of the municipal clerk to cause the question of adoption or rejection to be placed upon the ballot at such time as the commission shall in its report specify. The commission may cause the question to be submitted to the people at the next general or regular municipal election, occurring not less than 60 days following the filing of a copy of the commission's report with the clerk, or at a special election occurring not less than 60 days or more than 120 days after the filing of the report, at such time as the commission's report shall direct. At such election the question of adopting that plan of government recommended by the charter commission shall be submitted to the voters of the municipality in the same manner as other public questions to be voted upon by the voters of a single municipality. The charter commission shall frame the question to be placed upon the ballot as provided in section 1-14 and, if it deems appropriate, an interpretative statement to accompany such question.

L.1950, c. 210, p. 466, s. 1-15. Amended by L.1953, c. 254, p. 1745, s. 7, eff. July 20, 1953, L.1981, c. 465, s. 4, eff. Jan. 9, 1982.

#### **40:69A-16. Special charter or specific amendments of charters; petition to legislature**

If the charter commission shall propose a special charter or specific amendment or amendments of or to the existing charter of the municipality, it shall be the duty of the governing body of the municipality to forthwith petition the Legislature for a special law or laws, pursuant to the Constitution of 1947 and in the manner provided by general enabling legislation thereunder, to carry out the recommendations of the charter commission.

L.1950, c. 210, p. 466, s. 1-16, eff. June 8, 1950.

#### **40:69A-17. Other proceedings pending; no new resolution or petition within 4 years**

No ordinance may be passed and no petition may be filed for the election of a charter commission pursuant to section 1-1 of this act while proceedings are pending under any

other petition or ordinance filed or passed under article 1 of this act, or while proceedings are pending pursuant to section 1-18 hereof or any other statute providing for the adoption of any other charter or form of government available to the municipality, nor within four years after an election shall have been held pursuant to any such ordinance or petition passed or filed pursuant to section 1-1 hereof.

L.1950, c. 210, p. 467, s. 1-17. Amended by L.1953, c. 254, p. 1745, s. 8, eff. July 20, 1953.

#### **40:69A-18. Adoption of optional plan without charter commission**

The legally qualified voters of any municipality may adopt any of the optional plans provided in this act upon petition and referendum, without a charter commission, hereinafter provided.

L.1950, c. 210, p. 467, s. 1-18. Amended by L.1953, c. 254, p. 1746, s. 9, eff. July 20, 1953; L.1973, c. 234, s. 3, eff. Oct. 24, 1973; L.1981, c. 465, s. 5, eff. Jan. 9, 1982.

#### **40:69A-19. Petition for election upon adoption of optional plan of government**

Upon petition of the registered voters of any municipality, an election shall be held in the municipality upon the question of adopting any of the optional plans of government provided in this act. The petition calling for such election shall be subject to the provisions of section 1-1(b) hereof and shall be signed by the following per centum of registered voters of the municipality:

- (a) 25% in municipalities of 7,000 or less inhabitants;
- (b) 20% in municipalities of more than 7,000 and less than 70,000 inhabitants;
- (c) 10% in municipalities of 70,000 or more inhabitants.

The petition shall designate the plan to be voted upon, which may include any of the alternatives provided in this act and the question to be placed upon the ballot shall be in the same form as is required by section 1-14 of this article.

L.1950, c. 210, p. 467, s. 1-19. Amended by L.1953, c. 254, p. 1746, s. 10; L.1954, c. 69, p. 424, s. 2, eff. June 24, 1954; L.1981, c. 465, s. 6, eff. Jan. 9, 1982.

#### **40:69A-20. Submission of question**

The municipal clerk shall provide for the submission of the question at the next general or regular municipal election if one is to be held not less than sixty days nor more than one hundred twenty days after the filing of the petition, and if a general or regular municipal election is not to be held within that time, at a special election within such time. The question of adoption of an optional plan of government shall be submitted to

the voters of the municipality in the same manner as other public questions to be voted upon by the voters of a single municipality.

L.1950, c. 210, p. 468, s. 1-20, eff. June 8, 1950.

**40:69A-21. Other proceedings pending; no new petition within 4 years**

No petition for submission of the question of adopting an optional plan of government pursuant to section 1-18 et seq. of this act may be filed while proceedings are pending pursuant to another such petition, or under an ordinance passed or petition filed pursuant to section 1-1 of this act, or while proceedings are pending pursuant to any other statute for the adoption of any other charter or form of government available to the municipality, nor within four years after an election shall have been held pursuant to any such petition filed pursuant to section 1-18 et seq. of this act.

L.1950, c. 210, p. 468, s. 1-21. Amended by L.1953, c. 254, p. 1746, s. 11, eff. July 20, 1953.

**40:69A-22. Vote in favor of change in form of government**

Whenever the legally qualified voters of any municipality by a majority of those voting on the question, vote in favor of adopting a change in their form of government pursuant to this act, either by the charter commission method or by direct petition and referendum, the proposed charter or charter amendment or amendments shall take effect according to its terms.

L.1950, c. 210, p. 468, s. 1-22, eff. June 8, 1950.

**40:69A-23. After adoption, no subsequent vote on change for 3 or 5 years**

The voters of any municipality which has adopted an optional form of government pursuant to this act may not vote on the question of adopting another form of government until three years thereafter, in the case of municipalities of 7,000 or less inhabitants, and five years thereafter in the case of all other municipalities.

L.1950, c. 210, p. 468, s. 1-23, eff. June 8, 1950.

**40:69A-24. Each optional plan declared complete form of government**

For the purposes of this act each of the optional plans of government provided in this act, and each of said optional plans as modified by any available provisions concerning the time of elections, size and terms of council and number of wards, is hereby declared to be a complete and separate form of government provided by the Legislature for submission to the voters of the municipality.

L.1950, c. 210, p. 468, s. 1-24. Amended by L.1953, c. 254, p. 1747, s. 12, eff. July 20, 1953; L.1973, c. 234, s. 4, eff. Oct. 24, 1973; L.1981, c. 465, s. 12, eff. Jan. 9, 1982.

#### **40:69A-25. Reversion to prior law**

Any municipality may, subject to the provisions of section 1-23 of this act, abandon its optional plan and revert to the form of government under which it was governed immediately prior thereto, upon the filing of a petition and referendum as follows:

(a) Upon petition of the registered voters of the municipality signed by the same number thereof as required in section 1-19, for an election to submit the question of abandonment and reversion as herein provided, the municipal clerk shall provide for submission of the question in like manner as provided in section 1-20.

(b) The form of the question shall be as follows:

Shall .....(Name of municipality)..... abandon its present form of government and revert to its prior form of government, known as .....(Popular Name of Plan)..... as provided by .....(Statutory Reference of Prior Plan).....

(c) If a majority of those voting on the question vote in the affirmative the municipality shall revert to its prior form of government as of 12 m. of the fifty-ninth day following the election of officers under the form of government to which the municipality will revert. The first officers under such form of government shall be elected at the next regular municipal or general election, as appropriate to the form of government to which the municipality will revert, occurring not less than 60 days following the referendum. It shall be the duty of the municipal clerk to perform all the duties respecting such election as would be required of a municipal clerk for elections under the form of government to which the municipality will revert. Whenever a municipality has reverted to any form of government other than the commission form of government law (R.S.40:79-1 et seq.), or the municipal manager form of government (R.S.40:70-1 et seq.), at a later date than the one fixed for the filing of nominating petitions at the primary election, the candidates to be first elected shall be nominated by direct petition in the manner provided by law for nomination, by direct petition for a general election.

Any law to the contrary notwithstanding, persons holding office at the time of a referendum approving reversion shall continue to hold office until the municipality reverts to the previous form of government. Vacancies existing at the holding of the referendum or which occur between the holding of the referendum and the reversion of the municipality to its previous form of government, shall be filled by appointment pursuant to procedures for the filing of vacancies appropriate to the "Optional Municipal Charter Law."

If a majority of those voting on the question vote in the negative, the question of abandonment and reversion shall not again be submitted for five years.

(d) The reversion to a prior form of government shall take effect as provided in sections 17-57 through 17-59 of this act for transition to an optional plan hereunder.

(e) No petition shall be filed nor referendum held pursuant to this section which would provide for the reversion of a municipality to a form of government which it is not currently authorized to adopt by law.

L.1950,c.210,s.1-25; amended 1967,c.17; 1970,c.100; 1980,c.82; 1991,c.430,s.3.

**40:69A-25.1. Amendment of charter to include alternative under plan of government; referendum; ballot; form of question**

a. Any municipality governed by a plan of government adopted pursuant to P.L.1950, c. 210 (C. 40:69A-1 et seq.) may, by referendum, amend its charter to include any alternative permitted under that plan of government. The question of adopting an alternative may be initiated by the voters pursuant to, and subject to the pertinent provisions of, sections 17-35 through 17-47 (C. 40:69A-184 through 40:69A-196); or may be submitted to the voters by ordinance adopted by the governing body, in which case the question and ordinance shall be subject to the pertinent provisions of sections 17-42 through 17-47 (C. 40:69A-191 through 40:69A-196), except that no petition of the voters shall be necessary in order to submit the question.

b. At any election at which the question of adopting an alternative is to be submitted to the voters pursuant to this section, the question shall be submitted in substantially the following form:

"Shall the charter of governed by (insert name of municipality) be amended, as permitted under that (insert plan of government) plan, to provide for (insert appropriate language from below for the "alternative to be voted upon)

**GROUP A.**

- (1) "the holding of regular municipal elections in May;"
- (2) "the holding of general elections in November;"

**GROUP B.**

- (3) "the election of all council members at large;"
- (4) "the division of the municipality into wards with (insert number) council members to be elected at large and one from (insert number) each ward;"

**GROUP C.**

- (5) "the election of all council members for concurrent terms;"

(6) "the election of council members for staggered terms;"

GROUP D.

(7) "the election of the mayor by the members of the council from among their own number;

(8) "the election of the mayor directly by the voters of the municipality;"

GROUP E.

(9) "a municipal council to consist of three members;"

(10) "a municipal council to consist of five members" ;

(11) "a municipal council to consist of seven members;"

(12) "a municipal council to consist of nine members."

If more than one alternative is to be submitted to the voters at the same time, each alternative shall be separately stated on the ballot in the form of a question as set forth above. If the provisions of two or more alternatives adopted at the same election conflict, then that receiving the greatest affirmative vote shall control. Nothing contained in this section shall authorize the submission to the voters of the question of adopting any alternative not authorized by the plan of government under which the municipality is governed. No question shall be submitted to the voters pursuant to this section within 4 years next following the adoption by the municipality of a plan of government authorized by P.L.1950, c. 210 (C. 40:69A-1 et seq.) or this act, or within 4 years next following the date on which the question of adopting it or any alternative in the same group was last submitted to the voters pursuant to this section.

c. In any municipality having adopted a charter providing for the division of the municipality into wards, the question of increasing or decreasing the number of council members to be elected in the municipality shall be submitted to the voters in the manner set forth in alternative (4) of Group B. of subsection b. of this section. None of the alternatives set forth in Group E. of that subsection shall be submitted to the voters in any municipality divided into wards, unless at the same election alternative (3) of Group B. of that subsection is also submitted, in which case both alternatives shall be approved by the voters in order for either to take effect.

L.1981, c. 465, c. s. 7, eff. Jan. 9, 1982.

**40:69A-25.2. Alternative under 40:69A-25.1, transition provisions**

a. Whenever any municipality, pursuant to the authority granted in section 7 of this act, shall amend its charter to include an alternative permitted under its plan of government and included in Group B. of subsection b. of section 7 of this act, the terms of all council members, and directly elected mayor if affected, currently serving in the municipality on the date of the election at which the amendment was adopted, and of all

affected officers elected at that election, shall terminate on June 30, or December 31, as appropriate to the election provisions of the amended charter, next following the date of the first election of officers under the amended charter. The nomination and election of those municipal officers as are required shall be conducted in accordance with the provisions of the amended charter and appropriate law for the election to be held on the second Tuesday in May next following the date of adoption, or on the first Tuesday after the first Monday in November next following the date of adoption. If the amendment adopted to the charter shall provide for the division of the municipality into wards, or by its terms require an increase or decrease in the number of wards into which the municipality is divided, the ward boundaries required by the amended charter shall be fixed and determined pursuant to law within 90 days of the date of adoption.

If the municipality shall at the same time amend its charter to include an alternative permitted under its plan of government and included in Group A., Group C., Group D. or Group E. of subsection b. of section 7 of this act, the transitional provisions of this section shall apply and the provisions of all amendments shall take effect for the election to be held pursuant to this section.

b. In any municipality which has amended its charter with regard to the holding of elections according to the alternatives set forth in Group A of section 7 of P.L.1981, c.465 (C.40:69A-25.1), where council members are elected for concurrent terms, the first election of council members following the referendum adopting the charter amendment shall take place at the next regular municipal election or general election, as appropriate to the election provisions of the amended charter, which shall occur in the final year of the terms of those council members serving at the time the referendum is adopted. Where council members are elected for staggered terms, except as provided below, each council member serving or elected at the time that the referendum adopting the charter amendment takes place, shall complete the term of office which he is currently serving, or to which he is elected at the time of the referendum. At the regular municipal election or general election, as appropriate to the election provisions of the amended charter, which shall occur in the final year of the term of each member, the office shall be filled according to the election provisions of the amended charter, and the term of the affected council member shall terminate on June 30 or December 31, as appropriate to the election provisions of the amended charter.

L.1981,c.465,s.8; amended 1991,c.430,s.4.

#### **40:69A-25.3. Group C alternative; adoption; transitional provisions**

Whenever any municipality shall, pursuant to the authority granted in section 7 of this act, amend its charter only to include an alternative permitted under its plan of government and included in group C. of subsection b. of section 7 of this act, the transitional provisions of this section shall apply.

a. If the amended charter shall provide for the election of all council members for concurrent terms in a municipality where prior to the amendment council members were

elected for staggered terms, at the next election at which municipal officers are elected, and at each succeeding municipal election thereafter until such time as it shall occur that all council members shall be elected at the same election, council members elected at that election shall serve for a term equal in years to the number which the council member currently serving and having the greatest number of years remaining of his term has yet to serve of his term. At the election that it shall occur that all council members shall be elected at the same time, each council member shall be elected for the term of years provided in the amended charter.

b. If the amended charter shall provide for the election of council members for staggered terms in a municipality where prior to the amendment council members were elected for concurrent terms, the amendment to the charter shall take effect for the next election at which municipal officers are elected in the municipality.

L.1981, c. 465, s. 9, eff. Jan. 9, 1982.

#### **40:69A-25.4. Group D alternative; adoption; transitional provisions**

Whenever any municipality shall, pursuant to the authority granted in section 7 of this act, amend its charter only to include an alternative permitted under its plan of government and included in group D. of subsection b. of section 7 of this act, the transitional provisions of this section shall apply.

a. If a municipality in which the mayor is elected by the members of the council shall adopt an amendment to its charter providing for the election of the mayor directly by the voters of the municipality, the amendment shall take effect for the next election held in the municipality at which municipal officers are elected, in accordance with the provisions of the amended charter. Any mayor currently serving on the date of that election shall, upon and after the date of the commencement of the term of the mayor elected at that election, serve as a member of the council for the remainder of his term but shall not exercise the powers or duties of mayor.

b. If a municipality in which the mayor is elected directly by the voters of the municipality shall adopt an amendment to its charter providing for the election of the mayor by the members of the council, the amendment shall take effect the first day of the next full month after adoption. On that date the members of the council currently serving shall meet and elect one of their number as mayor to serve until the first day of July, or January, as appropriate, next, at which time the members shall elect one of their number to serve a full term as mayor, pursuant to the amended charter. Any mayor serving on the effective date of the amendment shall, on and after that date, serve as a member of the council for the remainder of his term, but shall not exercise the powers or duties of mayor unless elected by the council.

L.1981, c. 465, s. 10, eff. Jan. 9, 1982.



#### **40:69A-25.5. Group E alternative; adoption; transitional provisions**

Whenever any municipality shall, pursuant to the authority granted in section 7 of this act, amend its charter only to include an alternative permitted under its plan of government and included in group E. of subsection b. of section 7 of this act, the transitional provisions of this section shall apply.

a. If the amended charter shall provide for the election of council members at large for concurrent terms, the increase or decrease in the number of council members shall take effect for the next election at which municipal officers are elected in the municipality.

b. If the amended charter shall provide for the election of council members at large for staggered terms, an increase in the number of council members shall take effect as follows:

(1) If the plan of government requires generally a 3-year term for council members:

(a) And the increase is from three to five council members, at the next election at which municipal officers are elected, one additional council member shall be elected for a term of 1 year and one for a term of 2 years;

(b) And the increase is from three to seven council members, at the next election at which municipal officers are elected, two additional council members shall be elected for terms of 1 year, one for a term of 2 years, and one for a term of 3 years; or

(c) And the increase is from five to seven council members, at the next election at which municipal officers are elected, one additional council member shall be elected for a term of 1 year and one for a term of 3 years;

(2) If the plan of government requires generally a 4-year term for council members:

(a) And the increase is from five to seven council members, at the next election at which municipal officers are elected, one additional council member shall be elected for a term of 2 years and one for a term of 4 years;

(b) And the increase is from five to nine council members, at the next election at which municipal officers are elected, two additional council members shall be elected for terms of 2 years and two for terms of 4 years; or

(c) And the increase is from seven to nine council members, at the next election at which municipal officers are elected, one additional council member shall be elected for a term of 2 years and one for a term of 4 years.

c. If the amended charter shall provide for the election of council members at large for staggered terms, and the adopted amendment requires a decrease in the number of council members, the terms of all council members currently serving in the municipality on the date of the election at which the amendment was adopted, and of all council members elected at that election, shall terminate on June 30, or December 31, as appropriate to the election provisions of the amended charter, next following the date of the first election of officers under the amended charter. The nomination and election of council members shall be conducted in accordance with the provisions of the amended charter and appropriate law for the election to be held on the second Tuesday in May next following the date of adoption, or on the first Tuesday after the first Monday in November next following the date of adoption.

L.1981, c. 465, s. 11, eff. Jan. 9, 1982.

#### **40:69A-26. Laws governing after adoption of optional form of government**

Upon the adoption by the qualified voters of any municipality of any of the optional forms of government set forth in this act, the municipality shall thereafter be governed by the plan adopted, by the provisions of this act common to optional plans and by all applicable provisions of general law, subject to the transitional provisions of article 17 of this act, unless and until the municipality should adopt another form of government as provided by law.

L.1950, c. 210, p. 470, s. 2-1, eff. June 8, 1950.

#### **40:69A-27. Municipality remains body corporate and politic; name**

Upon such adoption of a plan under this act, the inhabitants of any municipality or municipalities within the corporate limits as now or hereafter established shall be and remain a body corporate and politic with perpetual succession, and with such corporate name as it has heretofore adopted or may hereafter adopt.

L.1950, c. 210, p. 471, s. 2-2, eff. June 8, 1950.

#### **40:69A-28. "General law" defined**

For the purposes of this act, a "general law" shall be deemed to be any law or provision of law, not inconsistent with this act, heretofore or hereafter enacted which is by its terms applicable or available to all municipalities, and the following additional laws whether or

not such additional laws are so applicable or available to all municipalities: legislation relating to taxation, local courts, education, health, public authorities serving more than one municipality, and municipalities in unsound financial condition.

L.1950, c. 210, p. 471, s. 2-3, eff. June 8, 1950.

#### **40:69A-29. Powers of municipality**

Each municipality governed by an optional form of government pursuant to this act shall, subject to the provisions of this act or other general laws, have full power to:

- (a) Organize and regulate its internal affairs, and to establish, alter, and abolish offices, positions and employments and to define the functions, powers and duties thereof and fix their terms, tenure and compensation;
- (b) Adopt and enforce local police ordinances of all kinds and impose one or more of the following penalties: fines not exceeding \$1,000.00 or imprisonment for any term not exceeding 90 days, or a period of community service not exceeding 90 days for the violation thereof; prescribe that for the violation of particular ordinances at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100.00; to construct, acquire, operate or maintain any and all public improvements, projects or enterprises for any public purpose, subject to referendum requirements otherwise imposed by law, and to exercise all powers of local government in such manner as its governing body may determine;
- (c) Sue and be sued, to have a corporate seal, to contract and be contracted with, to buy, sell, lease, hold and dispose of real and personal property, to appropriate and expend moneys, and to adopt, amend and repeal such ordinances and resolutions as may be required for the good government thereof;
- (d) Exercise powers of condemnation, borrowing and taxation in the manner provided by general law.

Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.

Any municipality which chooses not to impose an additional fine upon a person for a repeated violation of any municipal ordinance may waive the additional fine by ordinance or resolution.

L.1950,c.210,s.2; amended 1983,c.410,s.2; 1987,c.411,s.2; 1989,c.114,s.2.

**40:69A-30. Power of local self-government conferred; construction of grants of power**

The general grant of municipal power contained in this article is intended to confer the greatest power of local self-government consistent with the Constitution of this State. Any specific enumeration of municipal powers contained in this act or in any other general law shall not be construed in any way to limit the general description of power contained in this article, and any such specifically enumerated municipal powers shall be construed as in addition and supplementary to the powers conferred in general terms by this article. All grants of municipal power to municipalities governed by an optional plan under this act, whether in the form of specific enumeration or general terms, shall be liberally construed, as required by the Constitution of this State, in favor of the municipality.

L.1950, c. 210, p. 472, s. 2-5, eff. June 8, 1950.

**40:69A-31. Applicable laws**

The form of government provided in this article shall be known as the "mayor-council plan and shall, together with articles 2 and 17, govern any municipality the voters of which have adopted it pursuant to this act.

L.1950, c. 210, p. 472, s. 3-1, eff. June 8, 1950. Amended by L.1981, c. 465, s. 13, eff. Jan. 9, 1982.

**40:69A-32. Mayor-council plan**

a. Each municipality hereunder shall be governed by an elected council, and an elected mayor and by such other officers and employees as may be duly appointed pursuant to this article, general law or ordinance.

b. For the purpose of the construction of all other applicable statutes, unless the explicit terms and context of the statute require a contrary construction, any administrative or executive functions assigned by general law to the governing body shall be exercised by the mayor, and any legislative and investigative functions assigned by general law to the governing body shall be exercised by the council. Those functions shall be exercised pursuant to the procedures set forth in this plan of government, unless other procedures are required by the specific terms of the general law.

L. 1950, c. 210, p. 472, s. 3-2, eff. June 8, 1950. Amended by L. 1985, c. 374, s. 1, eff. Nov. 26, 1985.

**40:69A-33. Mayor; election; term**

The mayor shall be elected by the voters of the municipality, and shall serve for a term of 4 years.

L.1950, c. 210, p. 473, s. 3-3, eff. June 8, 1950. Amended by L.1981, c. 465, s. 14, eff. Jan. 9, 1982.

#### **40:69A-34. Council members; number; term**

The council shall consist of five members, unless otherwise provided in the municipal charter, who shall serve for a term of 4 years.

L.1950, c. 210, p. 473, s. 3-4, eff. June 8, 1950. Amended by L.1981, c. 465, s. 15, eff. Jan. 9, 1982.

#### **40:69A-34.1. Mayor-council plan; election of mayor and council; regular municipal or general election**

Any municipality adopting a mayor-council plan of government shall provide in its charter that the mayor and council shall be elected by the voters of the municipality either:

- a. At a regular municipal election held on the second Tuesday in May in the years in which municipal officers are to be elected, in which case the term of office of the mayor and council members shall begin on July 1 next following their election; or
- b. At the general election held on the first Tuesday after the first Monday in November or at such other time as may be provided by law for holding general elections, in which case the term of office of the mayor and council members shall begin on January 1 next following their election.

L.1981, c. 465, s. 16, eff. Jan. 9, 1982.

#### **40:69A-34.2. Council members; election at large or by ward**

Any municipality adopting a mayor-council plan of government shall provide in its charter either:

- a. That the council members shall be elected at large by the voters of the municipality at the regular municipal election, or general election, as the charter shall provide; or
- b. That the municipality shall be divided into wards pursuant to the authority granted in section 1-13 or 1-19 (C.40:69A-13 or 40:69A-19); that council members shall be elected at large and by wards at the regular municipal election or general election, as the charter shall provide; and that no more than one council member shall be elected from each ward established in the municipality, and all other council members shall be elected at large.

L.1981, c.465, s.17; amended 1989,c.221,s.2.

#### **40:69A-34.3. First council members; terms of office**

a. Any municipality adopting a mayor-council plan of government may provide in its charter that the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan shall serve for the following terms: if the municipal council is to consist of five members, two shall serve for four years and three for two years; if the municipal council is to consist of seven members, three shall serve for four years and four for two years; or if the municipal council is to consist of nine members, four shall serve for four years and five for two years. The length of the respective term of each member of the first council shall be determined by lot at the organization of the council immediately following the election.

b. Notwithstanding the provisions of subsection a. of this section, if a municipality adopting the provisions of this section shall also provide in its charter that the municipality shall be divided into wards pursuant to the authority granted in section 1-13 or 1-19 (C.40:69A-13 or 40:69A-19), the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan shall serve as follows: the council members elected at large for a term of four years; and the council members elected from wards for a term of two years.

L.1981, c.465, s.18; amended 1989,c.221,s.3.

#### **40:69A-36. Legislative power**

The legislative power of the municipality shall be exercised by the municipal council, subject to the procedures set forth in this plan of government. Legislative powers shall be exercised by ordinance, except for the exercise of those powers that, under this plan of government or general law, do not require action by the mayor as a condition of approval for the exercise thereof, and may, therefore, be exercised by resolution, including, but not limited to:

- a. The override of a veto of the mayor;
- b. The exercise of advice and consent to actions of the mayor;
- c. The conduct of a legislative inquiry or investigation;
- d. The expression of disapproval of the removal by the mayor of officers or employees;
- e. The removal of any municipal officer for cause;
- f. The adoption of rules for the council;
- g. The establishment of times and places for council meetings;

- h. The establishment of the council as a committee of the whole and the delegation of any number of its members as an ad hoc committee;
- i. The declaration of emergencies respecting the passage of ordinances;
- j. The election, appointment, setting of salaries and removal of officers and employees of the council, subject to any pertinent civil service requirements and any pertinent contractual obligations, and within the general limits of the municipal budget;
- k. Designation of official newspapers;
- l. Approval of contracts presented by the mayor;
- m. Actions specified as resolutions in the "Local Budget Law" (N.J.S. 40A:4-1 et seq.) and the "Local Fiscal Affairs Law" (N.J.S. 40A:5-1 et seq.); and
- n. The expression of council policies or opinions which require no formal action by the mayor.

L. 1950, c. 210, p. 473, s. 3-6, eff. June 8, 1950. Amended by L. 1985, c. 374, s. 2, eff. Nov. 26, 1985.

#### **40:69A-37. Investigative, removal powers**

The council, in addition to such other powers and duties as may be conferred upon it by this charter or otherwise by general law, may:

- (a) Require any municipal officer, in its discretion, to prepare and submit sworn statements regarding his official duties in the performance thereof, and otherwise to investigate the conduct of any department, office or agency of the municipal government;
- (b) Remove, by at least two-thirds vote of the whole number of the council, any municipal officer, other than the mayor or a member of council, for cause, upon notice and an opportunity to be heard.

L. 1950, c. 210, p. 473, s. 3-7, eff. June 8, 1950. Amended by L. 1985, c. 374, s. 3, eff. Nov. 26, 1985.

#### **40:69A-37.1. Mayoral control of administration**

In any municipality adopting the mayor-council plan of government, the municipal council shall deal with employees of the department of administration and other administrative departments solely through the mayor or his designee. All contact with the employees, and all actions and communications concerning the administration of the

government and the provision of municipal services shall be through the mayor or his designee, except as otherwise provided by law.

Nothing in this section shall be construed to prohibit the council's inquiry into any act or problem of the administration of the municipality. Any council member may, at any time, require a report on any aspect of the government of the municipality by making a written request to the mayor. The council may, by a majority vote of the whole number of its members, require the mayor or his designee to appear before the council sitting as a committee of the whole, and to bring before the council those records and reports, and officials and employees of the municipality as the council may determine necessary to ensure clarification of the matter under study. The council may further, by a majority of the whole number of its members, designate any number of its members as an ad hoc committee to consult with the mayor or his designee to study any matter and to report to the council thereon. It is the intent of the mayor-council plan of government to confer on the council general legislative powers, and such investigative powers as are germane to the exercise of its legislative powers, but to retain for the mayor full control over the municipal administration and over the administration of municipal services.

L. 1985, c. 374, s. 8, eff. Nov. 26, 1985.

#### **40:69A-38. Municipal clerk; duties**

The council shall appoint a municipal clerk, who shall serve as clerk of the council, keep its minutes and records of its proceedings, maintain and compile its ordinances and resolutions as this act requires, and perform such functions as may be required by law. The municipal clerk shall, prior to his appointment, have been qualified by training or experience to perform the duties of the office.

L.1950, c. 210, p. 474, s. 3-8, eff. June 8, 1950.

#### **40:69A-39. Executive power**

The executive power of the municipality shall be exercised by the mayor, subject to the procedures set forth in this plan of government.

L. 1950, c. 210, p. 474, s. 3-9, eff. June 8, 1950. Amended by L. 1985, c. 374, s. 4, eff. Nov. 26, 1985.

#### **40:69A-40. Mayoral duties**

The mayor shall:

- a. Enforce the charter and ordinances of the municipality and all general laws applicable thereto;



- b. Report annually to the council and to the public on the state of the municipality, and the work of the previous year; he shall also recommend to the council whatever action or programs he deems necessary for the improvement of the municipality and the welfare of its residents. He may from time to time recommend any action or programs he deems necessary or desirable for the municipality to undertake;
- c. Supervise, direct and control all departments of the municipal government and shall require each department to make an annual and such other reports on its work as he may deem desirable;
- d. Require such reports and examine such accounts, records and operations of any board, commission or other agency of municipal government, as he deems necessary;
- e. Prepare and submit to the council for its consideration and adoption an annual operating budget and a capital budget, establish the schedules and procedures to be followed by all municipal departments, offices and agencies in connection therewith, and supervise and administer all phases of the budgetary process;
- f. Supervise the care and custody of all municipal property, institutions and agencies, and make recommendations concerning the nature and location of municipal improvements and execute improvements determined by the governing body;
- g. Sign all contracts, bonds or other instruments requiring the consent of the municipality;
- h. Review, analyze and forecast trends of municipal services and finances and programs of all boards, commissions, agencies and other municipal bodies, and report and recommend thereon to the council;
- i. Supervise the development, installation and maintenance of centralized budgeting, personnel and purchasing procedures as may be authorized by ordinance;
- j. Negotiate contracts for the municipality, subject to council approval;
- k. Assure that all terms and conditions imposed in favor of the municipality or its inhabitants in any statute, franchise or other contract are faithfully kept and performed;
- l. Serve as an ex officio, nonvoting member of all appointive bodies in municipal government of which he is not an official voting member.

L. 1950, c. 210, p. 474, s. 3-10, eff. June 8, 1950. Amended by L. 1985, c. 374, s. 5, eff. Nov. 26, 1985.

#### **40:69A-41. Approval or veto of ordinances; attending meetings**

(a) Ordinances adopted by the council shall be submitted to the mayor, and he shall within ten days after receiving any ordinance, either approve the ordinance by affixing his signature thereto or return it to the council by delivering it to the municipal clerk together with a statement setting forth his objections thereto or to any item or part thereof. No ordinance or any item or part thereof shall take effect without the mayor's approval, unless the mayor fails to return an ordinance to the council within ten days after it has been presented to him, or unless council upon reconsideration thereof on or after the third day following its return by the mayor shall by a vote of two-thirds of the members resolve to override the mayor's veto.

(b) The mayor may attend meetings of council and may take part in discussions of council but shall have no vote except in the case of a tie on the question of filling a vacancy in the council, in which case he may cast the deciding vote.

L.1950, c. 210, p. 474, s. 3-11, eff. June 8, 1950.

#### **40:69A-42. Acting mayor**

The mayor shall designate the business administrator, any other department head, or the municipal clerk to act as mayor whenever the mayor shall be prevented by absence from the municipality, disability or other cause from attending to the duties of his office. During such time the person so designated by the mayor shall possess all the rights, powers, and duties of mayor. Whenever the mayor shall have been unable to attend to the duties of his office for a period of sixty consecutive days for any of the above stated reasons, an acting mayor shall be appointed by the council, who shall succeed to all the rights, powers and duties of the mayor or the then acting mayor.

L.1950, c. 210, p. 475, s. 3-12, eff. June 8, 1950.

#### **40:69A-43. Municipal departments, number**

(a) The municipality shall have a department of administration and such other departments, not less than two and not exceeding nine in number, as council may establish by ordinance. All of the administrative functions, powers and duties of the municipality, other than those vested in the offices of the municipal clerk and the municipal tax assessor, shall be allocated and assigned among and within such departments.

The offices of the municipal clerk and the municipal tax assessor shall be subject to such general administrative procedures and requirements as are departments of the municipal government, including, but not limited to, the preparation and submission of an annual budget and of such periodic budget reports as are generally required of departments, and

such accounting controls, central purchasing practices, personnel procedures and regulations, and central data processing services as are generally required of departments.

(b) Each department shall be headed by a director, who shall be appointed by the mayor with the advice and consent of the council. Each department head shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of his successor. The mayor shall, with the advice and consent of the council, appoint the municipal assessor and all other municipal officers not assigned within municipal departments, subject to the terms of any general law providing for these offices, unless a different appointment procedure is clearly required by this plan of government or by general law.

(c) The mayor may in his discretion remove any department head and, subject to any general provisions of law concerning term of office or tenure, any other municipal executive officer who is not a subordinate departmental officer or employee, after notice and an opportunity to be heard. Prior to removal the mayor shall first file written notice of his intention with the council, and such removal shall become effective on the 20th day after the filing of such notice unless the council shall prior thereto have adopted a resolution by a two-thirds vote of the whole number of the council, disapproving the removal.

In the event of the removal or failure of reappointment of a business administrator, that administrator may, upon the enactment of an ordinance, be entitled to a three-months' written notice of the removal or non-reappointment, or if the mayor determines that the removal shall be immediate, then the administrator may, upon the enactment of an ordinance, be paid any unpaid balance of his salary plus his salary for a maximum of the next three calendar months following the effective date of the mayor's action unless the removal is for good cause. For the purposes of this subsection, "good cause" shall mean conviction of a crime or offense involving moral turpitude, the violation of the provisions of section 17-14, 17-15, 17-16, 17-17, or 17-18 of P.L.1950, c.210 (C.40:69A-163 through 40:69A-167), or the violation of any code of ethics in effect within the municipality.

(d) Department heads shall appoint subordinate officers and employees within their respective departments and may, with approval of the mayor, remove such officers and employees, subject to the provisions of Title 11A of the New Jersey Statutes, where that Title is effective in the municipality, or other general law.

(e) Notwithstanding the foregoing provisions of this section, in any city of the first class, there shall be, and in any municipality having a population of 15,000 or more, there may be, a board of alcoholic beverage control which shall exercise the powers conferred upon municipal boards of alcoholic beverage control under Title 33 of the Revised Statutes. Such boards shall be comprised of three members, no more than two of whom shall be of the same political party, who shall be appointed by the mayor, with the advice and consent of the council, each to serve for a term of three years, provided that of those first appointed, one shall be appointed to serve for a term of one year, one for two years,

and one for three years. Any vacancy in such office shall be filled in the same manner as the original appointment, for the balance of the unexpired term. Except in cities of the first class the members of such board shall serve without compensation but may be reimbursed for necessary expenses incurred in the performance of their duties; in cities of the first class, the members of such board shall receive such compensation as shall be established by ordinance of the municipality. They shall be removable by the mayor for cause. Any person appointed hereunder shall not be subject to the provisions of Title 11A of the New Jersey Statutes, and no such person shall be a member of the city council.

Nothing in this subsection shall be construed to limit the general power of the municipal council under this act to establish, alter and abolish offices, boards and commissions in any municipality other than a city of the first class.

(f) Whenever in any municipality with a population greater than 100,000, according to the latest federal decennial census, the governing body is authorized by any provision of general law to appoint the members of any board, authority or commission, such power of appointment shall be deemed to vest in the mayor with the advice and consent of the council. In all other municipalities, whenever the governing body is authorized by any provision of general law to appoint the members of any board, authority or commission, such power of appointment shall be deemed to vest in the mayor with the advice and consent of the council, unless the specific terms of that general law clearly require a different appointment procedure or appointment by resolution, in which case the appointment shall be by the council.

L.1950,c.210,s.3-13; amended 1954, c.68, s.1; 1960, c.61; 1961, c.126, s.1; 1981, c.393, s.5; 1981, c.462, s.39; 1985, c.374, s.6; 1989, c.258, s.1; 1997, c.418.

#### **40:69A-43a. Administrative department salaries**

The mayor shall, subject to any pertinent civil service requirements and any pertinent contractual obligations, and within the general limits of the municipal budget, fix the amount of salary, wages or other compensation to be paid to employees of the administrative departments of the municipal government, except that the salary, wages or other compensation paid the director of each department shall be fixed by the council pursuant to subsection (c) of section 17-31 of P.L. 1950, c. 210 (C. 40:69A-180), and except that salaries of officers which are required by law to be fixed by ordinance shall be fixed by ordinance.

L. 1985, c. 374, s. 9, eff. Nov. 26, 1985.

#### **40:69A-43.1. Deputy director of department**

The director of each department in any city of the second class which, prior to the effective date of this amendatory and supplementary act, had adopted the form of government designated as "Mayor-Council Plan D" provided for in article 6 of the act to which this act is a supplement, may appoint a deputy director of his department who shall serve, and be removable at the pleasure of the director, in the unclassified service of the civil service of the city and shall receive such salary as shall be fixed by the director with the approval of the council.

No municipality shall adopt the provisions of this section on or after the effective date of this amendatory and supplementary act.

L.1954, c. 62, p. 414, s. 1, eff. June 24, 1954. Amended by L.1981, c. 465, s. 39, eff. Jan. 9, 1982.

#### **40:69A-43.2. Powers and duties of deputy**

The director shall prescribe, in writing, the powers and duties of the deputy so appointed by him and the acts of such deputy, within the scope of his authority, shall in all cases be as legal and binding as if done and performed by the director for whom he is acting.

L.1954, c. 62, p. 414, s. 2, eff. June 24, 1954.

#### **40:69A-44. Department of administration; director; qualifications; powers and duties**

The department of administration shall be headed by a director who shall be known and designated as business administrator. He shall be chosen solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the municipality or State, but during his tenure of office he may reside outside the municipality only with the approval of council. He shall have, exercise and discharge the functions, powers and duties of the department. The department, under the direction and supervision of the mayor shall:

- (a) Assist in the preparation of the budget;
- (b) Administer a centralized purchasing system;
- (c) Be responsible for the development and administration of a sound personnel system; and
- (d) Perform such other duties as council may prescribe.

(e) The governing body of the municipality may provide, by ordinance, that the business administrator also shall, subject to the direction of the mayor, supervise the administration of each of the departments established by ordinance. For this purpose, he shall have power to investigate the organization and operation of any and all departments, to prescribe standards and rules of administrative practice and procedure, and to consult with the heads of the departments under his jurisdiction; provided that with respect to any department of law or department of audit, accounts or control, the authority of the business administrator under this subsection shall extend only to matters of budgeting, personnel and purchasing.

L.1950, c. 210, p. 476, s. 3-14. Amended by L.1954, c. 68, p. 422, s. 2; L.1981, c. 462, s. 40; L.1981, c. 465, s. 19, eff. Jan. 9, 1982.

#### **40:69A-45. Preparation of budget**

The municipal budget shall be prepared by the mayor with the assistance of the business administrator. During the month of November, the mayor shall require all department heads to submit requests for appropriations for the ensuing budget year, and to appear before the mayor or the business administrator at public hearings, which shall be held during that month, on the various requests.

L.1950, c. 210, p. 476, s. 3-15, eff. June 8, 1950.

#### **40:69A-46. Budget submitted to council**

Except in those municipalities which operate on the State fiscal year pursuant to section 2 or 3 of P.L.1991, c.75 (C.40A:4-3.1 or C.40A:4-3.2), on or before the fifteenth day of the fiscal year the mayor shall submit to council his recommended budget together with such explanatory comment or statement as he may deem desirable. The budget shall be in such form as is required by law for municipal budgets, and shall in addition have appended thereto a detailed analysis of the various items of expenditure and revenue. Council may reduce any item or items in the mayor's budget by a vote of a majority of the council, but an increase in any item or items therein shall become effective only upon an affirmative vote of two-thirds of the members of council.

L.1950,c.210,s.3-16; amended 1991,c.75,s.6.

##### **40:69A-46.1. Mayor-council plan deadline**

Notwithstanding the provisions of section 3-16 of P.L. 1950, c. 210 (C. 40:69A-46), in any local budget year for which budget dates are extended pursuant to section 1 of this act, the mayor of a municipality governed under the "mayor-council plan" pursuant to P.L. 1950, c. 210 (C. 40:69A-1 et seq.) which takes advantage of such extension shall

submit to the council his recommended budget not less than 16 days prior to the extended date for the introduction and approval of municipal budgets.

L. 1989, c. 31, s. 8.

#### **40:69A-47. System of work programs and quarterly allotments**

The council shall where practicable provide for the maintenance of a system of work programs and quarterly allotments, for operation of the budget. It shall be the duty of the officer or department administering any such program to develop and report appropriate unit costs of budgeted expenditures.

L.1950, c. 210, p. 477, s. 3-17, eff. June 8, 1950.

#### **40:69A-48. Control functions**

Provision shall be made by ordinance for the exercise of a control function, in the management of the finances of the municipality, by some officer other than the business administrator. The control function shall include provision for an encumbrance system of budget operation, for expenditures only upon written requisition, for the pre-audit of all claims and demands against the municipality prior to payment, and for the control of all payments out of any public funds by individual warrant for each payment to the official having custody thereof.

L. 1950, c. 210, p. 477, s. 3-18, eff. June 8, 1950. Amended by L. 1985, c. 374, s. 7, eff. Nov. 26, 1985.

#### **40:69A-60.1. Mayoral appointees**

The mayor of any municipality having a population of more than 300,000, which, prior to January 9, 1982, had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 of the act of which this act is a supplement, may appoint one or two deputy mayors, a personal secretary, an executive secretary, and aides, not exceeding 10 in number, who shall serve and be removable at the pleasure of the mayor, and who shall serve in the unclassified service of the civil service of the city and shall receive such salary as shall be fixed by ordinance.

No municipality shall adopt the provisions of this section on or after the date occurring six months after the effective date of this amendatory act.

The mayor of any municipality having a population of more than 80,000, but less than 300,000, which, prior to January 9, 1982, had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 of P.L.1950, c.210 (C.40:69A-55 et seq.), may appoint one or two deputy mayors, a personal secretary, an executive secretary, and aides not exceeding seven in number, who shall serve and be removable at

the pleasure of the mayor, and who shall serve in the unclassified service of the civil service of the municipality and shall receive such salary as shall be fixed by the mayor.

L.1963,c.69,s.1; amended 1970,c.168,s.1; 1981,c.465,s.40; 1985,c.159,s.1; 1990,c.102,s.1.

#### **40:69A-60.2. Powers and duties of deputies, secretaries and aides**

The mayor shall prescribe, in writing, the powers and duties of the deputy or deputies, personal secretary, executive secretary, and aides to the mayor.

L.1963, c. 69, s. 2, eff. May 28, 1963. Amended by L.1970, c. 168, s. 2, eff. July 31, 1970.

#### **40:69A-60.3. Municipalities over 300,000; department of administration; assistant business administrator**

The director of the department of administration in any municipality having a population of more than 300,000 which, prior to the effective date of this amendatory and supplementary act, had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 of the act of which this act is a supplement, may appoint and may remove, with the approval of the mayor, an assistant business administrator of his department who shall serve in the unclassified service of the civil service of the city and shall receive such salary as shall be fixed by ordinance.

No municipality shall adopt the provisions of this section on or after the effective date of this amendatory and supplementary act.

L.1965, c. 35, s. 1, eff. May 5, 1965. Amended by L.1981, c. 465, s. 41, eff. Jan. 9, 1982.

#### **40:69A-60.4. Powers and duties of assistant business administrator**

The director shall prescribe, in writing, the power and duties of the assistant business administrator so appointed and the acts of such assistant business administrator, within the scope of his authority, shall in all cases be as legal and binding as if done by the director for whom he is acting.

L.1965, c. 35, s. 2, eff. May 5, 1965.



**40:69A-60.5. Appointment of executive secretary, aides for council member; terms; compensation**

The municipal council of any municipality having a population of more than 270,000 which, prior to January 9, 1982 had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 of P.L.1950, c.210 (C.40:69A-55 et seq.), may appoint an executive secretary and not more than four aides for each council member, who shall serve, and be removable at the pleasure of the council member, and who shall serve in the unclassified service of the civil service of the city and shall receive such salary as shall be fixed by ordinance, but said salary shall not exceed the salaries of persons holding the positions of executive secretary or aide on April 26, 1985. Persons appointed pursuant to this section may have their salaries increased on a periodic basis in accordance with the recommendation in an annual merit evaluation for each aide, to be filed with the municipal clerk by the council members, but not in excess of the average percentage increase granted to other municipal employees in the same period.

The municipal council of any municipality having a population of more than 200,000, but less than 270,000, which, prior to January 9, 1982, had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 of P.L.1950, c.210 (C.40:69A-55 et seq.) may appoint not more than one aide for each council member, who shall serve, and be removable at the pleasure of the council member, and who shall serve in the unclassified service of the civil service of the city and shall receive a salary as shall be fixed by ordinance, except that the salary so fixed shall not exceed \$15,000.

No municipality shall adopt the provisions of this section on or after October 26, 1985.

L.1973,c.89,s.1; amended 1979,c.469; 1981,c.465,s.42; 1985,c.159,s.2; 1989,c.221,s.4; 1993,c.40; 1994,c.116.

**40:69A-60.6. Powers and duties of aides**

The municipal council shall prescribe, in writing, the powers and duties of the aide.

L.1973, c. 89, s. 2, eff. April 24, 1973.

**40:69A-60.7. City of first class under Mayor-Council Plan C; police chief; appointment; term of office; removal**

a. Notwithstanding the provisions of any other law to the contrary, the governing body of any city of the first class, which, prior to the effective date of this amendatory and supplementary act, had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 of the act to which this act is a supplement, may provide, by ordinance, that the mayor shall appoint a police chief, who shall have served as a superior police officer and possess at least 5 years' administrative and supervisory police experience, who shall serve during the term of office of the mayor appointing him,

and until the appointment and qualification of his successor, and who shall serve in the unclassified service of the civil service of the city and shall receive such salary as shall be fixed by ordinance.

b. The mayor of any first class city adopting the provisions of this supplementary act may in his discretion remove any person appointed pursuant to the provisions of this act, after notice and an opportunity to be heard. Prior to removing such person the mayor shall first file written notice of his intention to do so with the council, and such removal shall become effective on the twentieth day after the filing of such notice unless the council shall prior thereto have adopted a resolution disapproving such removal by at least a 2/3 vote of the membership of the council.

L.1979, c. 163, s. 1, eff. Aug. 6, 1979. Amended by L.1981, c. 465, s. 43, eff. Jan. 9, 1982.

#### **40:69A-67.1. Municipality with Mayor-Council Plan D; housing counsellor; duties**

The governing body of any municipality having a population in excess of 60,000 persons, in which, prior to the effective date of P.L.1981, c. 465 (C. 40:69A-12 et al.) the voters adopted the form of government designated as "Mayor-Council Plan D," formerly provided for in Article 6 of the "Optional Municipal Charter Law," P.L.1950, c. 210 (C. 40:69A-1 et seq.) may by ordinance create the position of housing counsellor to counsel new and prospective home owners concerning purchase and maintenance costs of housing within the municipality, and may prescribe such additional duties as are appropriate to the position.

L.1982, c. 47, s. 1, eff. June 29, 1982.

#### **40:69A-67.2. Appointment; removal; salary**

The position of housing counsellor created pursuant to section 1 of this act shall be filled by appointment of the council. The housing counsellor shall serve in the unclassified service of the civil service of the municipality, be removable at the pleasure of the council, and shall receive such salary as shall be fixed by the council.

L.1982, c. 47, s. 2, eff. June 29, 1982.

#### **40:69A-81. Applicable laws**

The form of government provided in this article shall be known as the "council-manager plan " and shall, together with articles 2 and 17, govern any municipality, the voters of which have adopted this plan pursuant to this act.

L.1950, c. 210, p. 485, s. 9-1, eff. June 8, 1950. Amended by L.1981, c. 465, s. 21, eff. Jan. 9, 1982.

**40:69A-82. Government by elected council and appointed manager and other officers and employees**

Each municipality under this article shall be governed by an elected council and by an appointed municipal manager, and by such other officers and employees as may be duly appointed pursuant to this article, general law or ordinance.

L.1950, c. 210, p. 485, s. 9-2, eff. June 8, 1950.

**40:69A-83. Council**

The municipal council shall consist of five members, unless otherwise provided in the municipal charter, who shall serve for a term of 4 years.

L.1950, c. 210, p. 485, s. 9-3, eff. June 8, 1950. Amended by L.1981, c. 465, s. 22, eff. Jan. 9, 1982.

**40:69A-83.1. Council-manager plan; charter provision; regular municipal or general election; term of office**

Any municipality adopting a council-manager plan of government shall provide in its charter that the council members shall be elected by the voters of the municipality either:

- a. At a regular municipal election held on the second Tuesday in May in the years in which municipal officers are to be elected, in which case the term of office of the council members shall begin on July 1 next following their election; or
- b. At the general election held on the first Tuesday after the first Monday in November or at such other time as may be provided by law for holding general elections, in which case the term of office of the council members shall begin on January 1 next following their election.

L.1981, c. 465, s. 23, eff. Jan. 9, 1982.

**40:69A-83.2. Election at large or by wards**

Any municipality adopting a council-manager plan of government shall provide in its charter either:

- a. That the council members shall be elected at large by the voters of the municipality at the regular municipal election, on general election, as the charter shall provide; or
- b. That the municipality shall be divided into wards pursuant to the authority granted in section 1-13 or 1-19 (C.40:69A-13 or 40:69A-19), that council members shall be

elected at large and by wards at the regular municipal election or general election, as the charter shall provide; and that no more than one council member shall be elected from each ward established in the municipality, and all other council members shall be elected at large.

L.1981, c.465, s.24; amended 1989,c.221,s.5.

### **40:69A-83.3. Terms of first council members**

a. Any municipality adopting a council-manager plan of government may provide in its charter that the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan shall serve for the following terms: if the municipal council is to consist of five members, two shall serve for four years and three for two years; if the municipal council is to consist of seven members, three shall serve for four years and four for two years; or if the municipal council is to consist of nine members, four shall serve for four years and five for two years. The length of the respective term of each member of the first council shall be determined by lot at the organization of the council immediately following the election; except that if, pursuant to the charter, the mayor is elected directly by the voters, the mayor shall, for the purposes of this subsection, be counted among those first council members to serve a four year term.

b. Notwithstanding the provisions of subsection a. of this section, if a municipality adopting the provisions of this section shall also provide in its charter that the municipality shall be divided into wards pursuant to the authority granted in section 1-13 or 1-19 (C.40:69A-13 or 40:69A-19), the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan shall serve as follows: the council members elected at large for a term of four years; and the council members elected from wards for a term of two years.

L.1981, c.465, s.25; amended 1989, c.221, s.6.

### **40:69A-86. Mayor; election by council or by voters; charter provision**

Any municipality adopting a council-manager plan of government shall provide in its charter either:

a. That the mayor shall be elected by the members of the council; in which case on the first day of July or January, as appropriate, following their election, the members-elect of the municipal council shall assemble at the usual place of meeting of the governing body of the municipality and organize and elect one of their number as mayor. The mayor shall be chosen by ballot by majority vote of all members of the municipal council. If the members shall be unable, within five ballots to be taken within 2 days of said organization meeting, to elect a mayor, then the member who in the election for

members of the municipal council received the greatest number of votes shall be the mayor. Should such person decline to accept the office, then the person receiving the next highest vote shall be the mayor, and so on, until the office is filled; or

b. That the mayor shall be elected directly by the voters of the municipality at the regular municipal election, or general election, as the charter shall provide. At the first election following the adoption of the charter, and each appropriate subsequent election, one position of council member to be elected at large shall be designated and voted for under the title of mayor, and candidates for the position shall be clearly designated as candidates for mayor in their respective nominating petitions. The candidate for mayor receiving the greatest number of votes shall be elected, and shall serve for a term of 4 years.

L.1950, c. 210, p. 486, s. 9-6, eff. June 8, 1950. Amended by L.1981, c. 465, s. 26, eff. Jan. 9, 1982.

#### **40:69A-87. Duties of mayor**

The mayor shall preside at all meetings of the municipal council and shall have a voice and vote in its proceedings. He shall fill vacancies occurring in the trustees of the public library and in the board of education where the municipality is operating under chapter 6 of Title 18 of the Revised Statutes for such terms of office as are provided by law. All bonds, notes, contracts and written obligations of the municipality shall be executed on its behalf by the mayor or, in the event of his inability to act, by such councilman as the municipal council shall designate to act as mayor during his absence or disability. The powers and duties of the mayor shall be only such as are expressly conferred upon him by this article.

L.1950, c. 210, p. 486, s. 9-7, eff. June 8, 1950.

#### **40:69A-88. Powers of municipality vested in council; exceptions**

All powers of the municipality and the determination of all matters of policy shall be vested in the municipal council, except as otherwise provided by this act or by general law.

L.1950, c. 210, p. 487, s. 9-8, eff. June 8, 1950.

#### **40:69A-89. Appointment of municipal manager and clerk and others**

The municipal council shall appoint a municipal manager and a municipal clerk. Both of such offices may be held by the same person. The council may provide for the manner of appointment of a municipal attorney, any planning board, zoning board of adjustment or personnel board in the municipality, and may create commissions and other bodies with advisory powers.

L.1950, c. 210, p. 487, s. 9-9.

**40:69A-90. Departments, boards and offices; deputy manager**

The municipal council shall continue or create, and determine and define the powers and duties of such executive and administrative departments, boards and offices, in addition to those provided for herein, as it may deem necessary for the proper and efficient conduct of the affairs of the municipality, including the office of deputy manager which shall not be included in the classified service under Title 11 of the Revised Statutes. Any department, board or office so continued or created may at any time be abolished by the municipal council.

L.1950, c. 210, p. 487, s. 9-10, eff. June 8, 1950.

**40:69A-91. Municipal council to act as a body; administrative service to be performed through manager; committees or commissions**

It is the intention of this article that the municipal council shall act in all the matters as a body, and it is contrary to the spirit of this article for any of its members to seek individually to influence the official acts of the municipal manager, or any other officer, or for the council or any of its members to direct or request the appointment of any person to, or his removal from, office; or to interfere in any way with the performance by such officers of their duties. The council and its members shall deal with the administrative service solely through the manager and shall not give orders to any subordinates of the manager, either publicly or privately. Nothing herein contained shall prevent the municipal council from appointing committees or commissions of its own members or of citizens to conduct investigations into the conduct of any officer or department, or any matter relating to the welfare of the municipality, and delegating to such committees or commissions such powers of inquiry as the municipal council may deem necessary. Any council member violating the provisions of this section shall, upon conviction thereof in a court of competent jurisdiction, be disqualified as a council member.

L.1950, c.210, s.9-11; amended 1989, c.221, s.7.

**40:69A-92. Qualifications of municipal manager**

The municipal manager shall be chosen by the council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the municipality or State, but during his tenure of office he may reside outside the municipality only with the approval of council.

L.1950, c. 210, p. 488, s. 9-12, eff. June 8, 1950.

#### **40:69A-93. Term of municipal manager; removal; suspension**

The municipal manager shall hold office for an indefinite term and may be removed by a majority vote of the council. At least 30 days before such removal shall become effective, the council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his removal. The manager may reply in writing and may request a public hearing, which shall be held not earlier than 20 days nor later than 30 days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager from duty, but shall in any case cause to be paid him forthwith any unpaid balance of his salary and his salary for the next 3 calendar months following adoption of the preliminary resolution unless he is removed for good cause. For the purposes of this section, "good cause" shall mean conviction of a crime or offense involving moral turpitude, the violation of the provisions of section 17-14, 17-15, 17-16, 17-17 or 17-18 of P.L.1950, c. 210 (C. 40:69A-163 through 40:69A-167), or the violation of any code of ethics in effect within the municipality.

L.1950, c. 210, p. 488, s. 9-13, eff. June 8, 1950. Amended by L.1981, c. 465, s. 27, eff. Jan. 9, 1982.

#### **40:69A-94. Absence or disability of manager**

The manager may designate a qualified administrative officer of the municipality to perform his duties during his temporary absence or disability. In the event of his failure to make such designation, the council may by resolution appoint an officer of the municipality to perform the duties of the manager during such absence or disability until he shall return or his disability shall cease.

L.1950, c. 210, p. 488, s. 9-14.

#### **40:69A-95. Powers and duties of manager**

The municipal manager shall:

- (a) Be the chief executive and administrative official of the municipality;
- (b) Execute all laws and ordinances of the municipality;
- (c) Appoint and remove a deputy manager if one be authorized by the council, all department heads and all other officers, subordinates, and assistants, except a municipal tax assessor, for whose selection or removal no other method is provided in this article, except that he may authorize the head of a department to appoint and remove subordinates in such department, supervise and control his appointees, and report all appointments or removals at the next meeting thereafter of the municipal council;

- (d) Negotiate contracts for the municipality subject to the approval of the municipal council, make recommendations concerning the nature and location of municipal improvements, and execute municipal improvements as determined by the municipal council;
- (e) See that all terms and conditions imposed in favor of the municipality or its inhabitants in any statute, public utility franchise or other contract are faithfully kept and performed, and upon knowledge of any violation call the same to the attention of the municipal council;
- (f) Attend all meetings of the municipal council with the right to take part in the discussions, but without the right to vote;
- (g) Recommend to the municipal council for adoption such measures as he may deem necessary or expedient, keep the council advised of the financial condition of the municipality, make reports to the council as requested by it, and at least once a year make an annual report of his work for the benefit of the council and the public;
- (h) Investigate at any time the affairs of any officer or department of the municipality;
- (i) Perform such other duties as may be required of the municipal manager by ordinance or resolution of the municipal council.

The municipal manager shall be responsible to the council for carrying out all policies established by it and for the proper administration of all affairs of the municipality within the jurisdiction of the council.

L.1950, c. 210, p. 489, s. 9-15, eff. June 8, 1950. Amended by L.1981, c. 393, s. 6, eff. Jan. 6, 1982.

#### **40:69A-96. Budget; preparation by manager**

The municipal budget shall be prepared by the municipal manager. During the month of November in each year, the municipal manager shall require all department heads to submit requests for appropriations for the ensuing budget year, and to appear before him at public hearings, which shall be held during that month, on the various requests.

L.1950, c. 210, p. 490, s. 9-16, eff. June 8, 1950.

#### **40:69A-97. Submission of budget to council**

Except in those municipalities which operate on the State fiscal year pursuant to section 2 or 3 of P.L.1991, c.75 (C.40A:4-3.1 or C.40A:4-3.2), on or before the fifteenth day of the



fiscal year the municipal manager shall submit to council his recommended budget together with such explanatory comment or statement as he may deem desirable. The budget shall be in such form as is required by law for municipal budgets, and shall in addition have appended thereto detailed analysis of the various items of expenditure and revenue.

The council shall, where practicable, provide by ordinance for the operation of a system of work programs and quarterly allotments for operation of the budget, and for development and reporting of appropriate unit costs of budgeted expenditures.

L.1950,c.210,s.9-17; amended 1991,c.75,s.7.

#### **40:69A-97.1. Council-manager plan deadline**

Notwithstanding the provisions of section 9-17 of P.L. 1950, c. 210 (C. 40:69A-97), in any local budget year for which budget dates are extended pursuant to section 1 of this act, the municipal manager of a municipality governed under the "council-manager plan" pursuant to P.L. 1950, c. 210 (C. 40:69A-1 et seq.) which takes advantage of such extension shall submit to the council his recommended budget not less than 16 days prior to the extended date for the introduction and approval of municipal budgets.

L. 1989, c. 31, s. 9.

#### **40:69A-98. Laws conferring powers upon mayor or other executive head construed as meaning municipal manager**

Any provision of general law conferring the appointing power or other power upon the mayor or other executive head of the municipality shall be construed as meaning the municipal manager in a municipality governed under this article, and the appointments or the power exercised by the municipal manager in accordance with such provision shall be classified and given the same force and effect as if executed by the official named therein, except that members of the board of education and of the trustees of the public library, whenever required to be appointed by any such provision by any board or official of the municipality, shall be appointed under this article by the mayor, and except that the mayor shall serve as the fifth member of the board of school estimate pursuant to N.J.S. 18A:22-1.

L.1950, c. 210, p. 490, s. 9-18, eff. June 8, 1950. Amended by L.1981, c. 68, s. 1, eff. March 18, 1981.

#### **40:69A-115. Adoption by municipalities under 12,000; applicable laws**

The form of government provided in this article shall be known as the "small municipality plan." It may be adopted by any municipality having a population of less

than 12,000 inhabitants and shall, together with articles 2 and 17, govern any municipality the voters of which have adopted the plan pursuant to this act.

L.1950, c. 210, p. 495, s. 13-1, eff. June 8, 1950. Amended by L.1981, c. 465, s. 29, eff. Jan. 9, 1982.

#### **40:69A-116. Government by elected council and mayor and appointed officers**

Each municipality shall be governed by an elected council and a mayor and such other officers as shall be appointed pursuant to this article, general law or ordinance.

L.1950, c. 210, p. 495, s. 13-2, eff. June 8, 1950. Amended by L.1981, c. 465, s. 30, eff. Jan. 9, 1982.

#### **40:69A-117. Composition of council**

The council shall consist of the mayor and two council members, unless pursuant to the authority granted under section 1-13 or 1-19 of article 1 of this act, or unless provided by amendment of the charter pursuant to section 7 of this amendatory act, the municipality shall be governed by a mayor and four or six council members. Members of the council shall be elected at large by the voters of the municipality and shall serve for a term of three years.

L.1950, c.210, s.13-3; amended 1981,c.465,s.31; 1989,c.221,s.8.

##### **40:69A-117.1. Small municipality plan; members of council; election at regular municipal or general election**

Any municipality adopting a small municipality plan of government shall provide in its charter that the council members shall be elected by the voters of the municipality either:

- a. At a regular municipal election held on the second Tuesday in May in the years in which municipal officers are to be elected, in which case the term of office of the council members shall begin on July 1 next following their election; or
- b. At the general election held on the first Tuesday after the first Monday in November or at such other time as may be provided by law for holding general elections, in which case the term of office of the council members shall begin on January 1 next following their election.

L.1981, c. 465, s. 32, eff. Jan. 9, 1982.

**40:69A-117.2. First members of council; terms of office**

Any municipality adopting a small municipality plan of government may provide in its charter that the council members elected at the first regular municipal election or general election as the charter shall provide, following the adoption of the plan shall serve for the following terms: if the municipal council is to consist of three members, one shall serve for one year, one for two years and one for three years; if the municipal council is to consist of five members, two shall serve for one year, two for two years and one for three years; or if the municipal council is to consist of seven members, three shall serve for a term of one year, two for a term of two years and two for a term of three years. The length of the respective term of each member of the first council shall be determined by lot at the organization of the council immediately following their election; except that if, pursuant to the charter, the mayor is elected directly by the voters, the mayor shall, for the purposes of this section, be counted among those first council members to serve a four year term.

L.1981, c.465, s.33; amended 1989, c.221, s.9.

**40:69A-117.3. Mayor; election by council or by voters; charter provision**

Any municipality adopting a small municipality plan of government shall provide in its charter either:

- a. That the mayor shall be elected by the members of the council; in which case on the first day of July or January, as appropriate, following their election, the members-elect of the municipal council shall assemble at the usual place of meeting of the governing body of the municipality and organize and elect one of their number as mayor; that the mayor shall be chosen by ballot by majority vote of members of the municipal council; that if the members shall be unable, within five ballots to be taken within 2 days of the organization meeting, to elect a mayor, then the member who in the election for members of the municipal council received the greatest number of votes shall be mayor; and that should that person decline to accept the office, then the person receiving the next highest vote shall be the mayor, and so on, until the office is filled; or
- b. That the mayor shall be elected directly by the voters of the municipality at the regular municipal election, or general election, as the charter shall provide; that at the first election following the adoption of the charter, and each appropriate subsequent election, one position of council member to be elected at large shall be designated and voted for under the title of mayor, and candidates for the position shall be clearly designated as candidates for mayor in their respective nominating petitions; and that the candidate for mayor receiving the greatest number of votes shall be elected and shall serve for a term of 4 years.

L.1981, c. 465, s. 34, eff. Jan. 9, 1982.

#### **40:69A-120. Legislative power; quorum; mayor's duties; president of council**

The legislative power of the municipality shall be exercised by the council, except as may be otherwise provided by general law. The mayor shall participate and vote as other council members. A majority of the whole number of the governing body shall constitute a quorum for the transaction of business but a smaller number may meet and adjourn from time to time. The mayor shall preside over all meetings of the council. The council shall select from among its members a president of the council who shall serve in place of the mayor in the event of his absence, disability or refusal to act.

L.1950, c. 210, p. 496, s. 13-6, eff. June 8, 1950.

#### **40:69A-121. Executive power; mayor's duties**

The executive power of the municipality shall be exercised by the mayor. It shall be his duty to see that all laws and ordinances in force and effect within the municipality are observed. He shall address the council and report to the residents annually, and at such other times as he may deem desirable, on the condition of the municipality and upon its problems of government.

L.1950, c. 210, p. 496, s. 13-7, eff. June 8, 1950.

#### **40:69A-122. Assessor; tax collector; attorney; clerk; treasurer; other officers; appointment**

An assessor, a tax collector, an attorney, a clerk, a treasurer and such other officers as may be provided by ordinance shall be appointed by the mayor with the advice and consent of the council. One person may be appointed to two or more such offices, except that one person shall not be the assessor and treasurer, or assessor and collector.

L.1950, c. 210, p. 496, s. 13-8, eff. June 8, 1950.

#### **40:69A-123. Finance committee and other committees of council**

The mayor shall also appoint a finance committee of council which may consist of one or more council members, and may appoint and designate other committees of council of similar composition.

L.1950, c.210, s.13-9; amended 1989,c.221,s.10.

#### **40:69A-124. Appointment of officers and employees by mayor**

All officers and employees whose appointment or election is not otherwise provided for in this article or by general law shall be appointed by the mayor. If the municipality has not adopted the provisions of Title 11 of the Revised Statutes (Civil Service), it shall be the duty of the mayor to recruit, select and appoint persons qualified by training and experience for their respective offices, positions and employments.

L.1950, c. 210, p. 497, s. 13-10, eff. June 8, 1950.

#### **40:69A-125. Residence in municipality not required**

Appointive officers and employees need not be residents of the municipality unless council shall so require.

L.1950, c. 210, p. 497, s. 13-11, eff. June 8, 1950.

#### **40:69A-126. Municipal clerk**

A municipal clerk shall be appointed by the mayor with the advice and consent of council. The municipal clerk shall be qualified by previous training or experience to perform the duties of his office. He shall serve at the pleasure of the council, except as otherwise provided by this act.

L.1950, c. 210, p. 497, s. 13-12, eff. June 8, 1950.

#### **40:69A-127. Duties of municipal clerk**

The municipal clerk shall serve as clerk of the council, perform such functions as may be required by law of municipal clerks generally, have such other powers and duties as council may prescribe. He shall maintain the records and minutes of the governing body.

L.1950, c. 210, p. 497, s. 13-13, eff. June 8, 1950.

#### **40:69A-128. Annual budget**

The mayor shall prepare the annual budget with the assistance of the treasurer and the co-operation of the other members of the council.

L.1950, c. 210, p. 497, s. 13-14, eff. June 8, 1950.

#### **40:69A-129. Treasurer's duties**

The treasurer shall be the chief financial officer of the municipality and shall keep and maintain books and records of all financial transactions of the municipality in accordance with the standards and requirements of the State Division of Local Government. The treasurer shall have custody of all public moneys of the municipality. He shall make monthly reports to council of all receipts, expenditures, commitments and unencumbered appropriation balances.

L.1950, c. 210, p. 497, s. 13-15, eff. June 8, 1950.

#### **40:69A-130. Disbursement of municipal funds**

No municipal funds shall be disbursed except pursuant to and within the limits of appropriations made in accordance with law. All disbursements shall be by bank check or draft signed by the mayor and countersigned by the treasurer, upon warrant of the chairman of the finance committee of council approved by council.

L.1950, c. 210, p. 498, s. 13-16, eff. June 8, 1950.

#### **40:69A-131. Tax collector; duties**

The municipal tax collector shall receive and collect all moneys assessed or raised by taxation or assessment for any purpose. The collector shall enter in suitable books or other records to be kept by him the sums received each day together with the account to which each receipt is credited. Within forty-eight hours after the receipt of any moneys of the municipality, or on the first banking day thereafter, the collector shall deposit such moneys in the authorized public depository of the municipality to the credit of the appropriate account. He shall report to council at least once each month at the same time as the treasurer is required to report, all receipts and deposits and cash on hand belonging to the municipality. Within sixty days after the end of the fiscal year, and at such other times as may be required by council, the collector shall make and furnish a detailed and true list of all delinquent taxpayers for the next preceding year or for such period as council may require.

L.1950, c. 210, p. 498, s. 13-17, eff. June 8, 1950.

#### **40:69A-132. Bond of treasurer and collector**

The treasurer and the collector shall each give bond, at the expense of the municipality, in accordance with general law.

L.1950, c. 210, p. 498, s. 13-18, eff. June 8, 1950.

**40:69A-149.1. Adoption by voters; applicable laws**

The form of government provided in this article shall be known as the "mayor-council-administrator plan," and shall, together with articles 2 and 17, govern any municipality the voters of which have adopted it pursuant to law.

L.1981, c. 465, s. 36, eff. Jan. 9, 1982.

**40:69A-149.2. Government by elected mayor and council, and appointed municipal administrator and other officers and employees**

Each municipality hereunder shall be governed by an elected mayor and council, and an appointed municipal administrator, and by such other officers and employees as may be duly appointed pursuant to this article, general law or ordinance.

L.1981, c. 465, s. 36, eff. Jan. 9, 1982.

**40:69A-149.3. Council; composition; mayor and councilmen; election; terms of office**

The council shall consist of the mayor and six council members. The mayor and council shall be elected at the general election to be held on the first Tuesday after the first Monday in November. Except as otherwise provided in this article for council members first elected, the mayor shall serve for a term of four years and the council members for a term of three years, beginning on January 1 next following their election.

L.1981, c.465, s.16A-3; amended 1989,c.221,s.

**40:69A-149.4. Election at large; terms of office of first elected**

The mayor and council members shall be elected at large by the voters of the municipality. At the first election following the adoption by a municipality of this section, of the six council members to be elected, two shall serve for a term of three years, two shall serve for a term of two years, and two shall serve for a term of one year.

L.1981, c.465, s.16A-4; amended 1989,c.221,s.12.

**40:69A-149.5. Council; legislative power; status of mayor; quorum; president; special meetings**

The legislative power of the municipality shall be exercised by the council, except as may be otherwise provided by general law. The mayor shall preside over all meetings of the

council except as herein provided, but shall not vote except to give the deciding vote in case of a tie. Three council members and the mayor, and in the absence of the mayor, four council members shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time. The council shall annually select from among the council members a president of the council who shall serve in place of the mayor in the event of the mayor's absence, disability or refusal to preside. The mayor shall, when necessary, call special meetings of the council. In case of the mayor's neglect or refusal, any four council members may call a special meeting upon due notice of the time and place to the mayor and all council members.

L.1981, c.465, s.16A-5; amended 1989,c.221,s.13.

#### **40:69A-149.6. Mayor; powers and duties**

The executive power of the municipality shall be exercised by the mayor. He shall enforce the charter and ordinances of the municipality and all general laws applicable thereto, and shall recommend such actions to the council as he may deem in the public interest.

L.1981, c. 465, s. 36, eff. Jan. 9, 1982.

#### **40:69A-149.7. Ordinances; approval by mayor**

Each ordinance adopted by the council shall be submitted to the mayor, and he shall within 10 days after receiving it either approve the ordinance by affixing his signature thereto or return it to the council by delivering it to the municipal clerk, together with a written statement of his objections thereto or to any item or part thereof. No ordinance, or any item or part thereof, shall take effect without the mayor's approval unless the mayor fails to return an ordinance to the council within 10 days after it has been presented to him, or unless the council, upon reconsideration thereof on or after the third day following its return by the mayor, shall resolve to override the mayor's veto by a vote of at least 2/3 of the members.

L.1981, c. 465, s. 36, eff. Jan. 9, 1982.

#### **40:69A-149.8. Mayoral appointments; municipal departments**

a. The mayor shall nominate, and with the advice and consent of the council appoint, a municipal administrator, an assessor, a tax collector, an attorney, a clerk, a treasurer and such other officers as may be provided by ordinance. Except where otherwise prohibited by general law, one person may be appointed to two or more such offices, except that one person shall not be simultaneously the assessor and treasurer, or assessor and collector. All such officers shall be annually appointed unless another term is provided by this article or by general law.



b. The municipality may provide by ordinance for the establishment of municipal departments, not to exceed six in number. Each department shall be headed by a director, who shall be appointed by the mayor with the advice and consent of the council. Each department head shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of a successor. The mayor may remove any department head upon written notice to the council. The council may remove department heads for cause after hearing.

The municipal administrator shall supervise the administration of each of the departments established by ordinance. For this purpose, the municipal administrator shall have the power to investigate the organization and operations of any department, to prescribe standards and rules of administrative practice and procedure, and to consult with the heads of departments.

L. 1981, c. 465, s. 36, eff. Jan. 9, 1982. Amended by L. 1985, c. 458, s. 1, eff. Jan. 15, 1986.

#### **40:69A-149.8a. Ordinances validated**

Any ordinance heretofore adopted by a municipality governed by section 36 of P.L. 1981, c. 465 (C. 40:69A-149.1 through 40:69A-149.16) which provides for the establishment of municipal departments, and any actions taken by a municipality pursuant to that ordinance, are validated and confirmed; provided, that the ordinance shall be amended to conform with the provisions of this amendatory and supplementary act within 90 days after its effective date.

L. 1985, c. 458, s. 3, eff. Jan. 15, 1986.

#### **40:69A-149.9. Municipal administrator**

The municipal administrator shall administer the business affairs of the municipality and shall, as provided by ordinance, have such powers and perform such duties which are not required by this article or general law to be exercised by the mayor, council or other officer, board or body. The administrator shall receive such compensation as may be provided by ordinance. The municipal administrator shall serve during the term of office of the mayor, but may be removed by a vote of at least two-thirds of the members of the council. The resolution of removal shall become effective three months after its adoption. The council may provide that the resolution shall have immediate effect, but in that case the council shall cause to be paid to the administrator forthwith any unpaid balance of his salary and his salary for the next three calendar months following adoption of the resolution unless he is removed for good cause. For the purposes of this section, "good cause" shall mean conviction of a crime or offense involving moral turpitude, the violation of the provisions of section 17-14, 17-15, 17-16, 17-17 or 17-18 of P.L. 1950, c. 210 (C. 40:69A-163 through 40:69A-167), or the violation of any code of ethics in effect within the municipality.

L. 1981, c. 465, s. 36, eff. Jan. 9, 1982. Amended by L. 1985, c. 458, s. 2, eff. Jan. 15, 1986.

**40:69A-149.10.        Officers and employees; appointment and recruitment by mayor**

All officers and employees whose appointment or election is not otherwise provided for in this article or by general law shall be appointed by the mayor. If the municipality has not adopted the provisions of Title 11 of the Revised Statutes, it shall be the duty of the mayor to recruit, select and appoint persons qualified by training and experience for their respective offices, positions and employments.

L.1981, c. 465, s. 36, eff. Jan. 9, 1982.

**40:69A-149.11.        Clerk**

The municipal clerk shall serve as clerk of the council, perform such functions as may be required by law of municipal clerks generally, and have such other powers and duties as the council may prescribe. He shall maintain the records and minutes of the governing body. The municipal clerk shall be qualified by previous training or experience to perform the duties of his office. He shall serve for such term as is generally provided by law.

L.1981, c. 465, s. 36, eff. Jan. 9, 1982.

**40:69A-149.12.        Annual budget; preparation**

The council shall prepare the annual budget with the assistance of the municipal administrator and the treasurer.

L.1981, c. 465, s. 36, eff. Jan. 9, 1982.

**40:69A-149.13.        Treasurer**

The treasurer shall be the chief financial officer of the municipality and shall keep and maintain books and records of all financial transactions of the municipality in accordance with the standards and requirements of the Division of Local Government Services in the Department of Community Affairs. The treasurer shall have custody of all public moneys of the municipality. He shall make monthly reports to the council of all receipts, expenditures, commitments and unencumbered appropriation balances.

L.1981, c. 465, s. 36, eff. Jan. 9, 1982.

**40:69A-149.14.        Municipal funds; disbursement**

No municipal funds shall be disbursed except pursuant to and within the limits of appropriations made in accordance with law. All disbursements shall be by bank check or draft signed by the mayor and countersigned by the treasurer, upon warrant of the council.

L.1981, c. 465, s. 36, eff. Jan. 9, 1982.

**40:69A-149.15.        Tax collector**

The municipal tax collector shall receive and collect all moneys assessed or raised by taxation or assessment for any purpose. The collector shall enter in suitable books or other records to be kept by him the sums received each day together with the account to which each receipt is credited. Within 48 hours after the receipt of any moneys of the municipality, or on the first banking day thereafter, the collector shall deposit such moneys in the authorized public depository of the municipality to the credit of the appropriate account. He shall report to the council at least once each month at the same time as the treasurer is required to report, all receipts and deposits and cash on hand belonging to the municipality. Within 60 days after the end of the fiscal year, and at such other times as may be required by the council, the collector shall make and furnish a detailed and true list of all delinquent taxpayers for the next preceding year or for such period as the council may require.

L.1981, c. 465, s. 36, eff. Jan. 9, 1982.

**40:69A-149.16.        Bond; treasurer and collector**

The treasurer and the collector shall each give bond, at the expense of the municipality, in accordance with general law.

L.1981, c. 465, s. 36, eff. Jan. 9, 1982.

**40:69A-150.    Municipal elections; time**

Regular municipal elections shall be held in each municipality on the second Tuesday in May in the years in which municipal officers are to be elected, where the election of such officers is not provided to be at the general election. Regular municipal elections shall be conducted pursuant to the "Uniform Nonpartisan Elections Law," P.L.[1981], c. [379] (C. [40:45-5 et seq.]).

L.1950, c. 210, p. 503, s. 17-1, eff. June 8, 1950. Amended by L.1981, c. 379, s. 30, eff. Jan. 1, 1982.

#### **40:69A-152. Terms of municipal officers**

Every municipal officer elected under any of the plans provided in this act shall serve for the term of office specified in the plan and until his successor is elected and qualified.

L.1950, c. 210, p. 503, s. 17-3, eff. June 8, 1950.

#### **40:69A-153.1. Dual candidacy; prohibition**

No person shall accept nomination for more than one municipal office to be voted for at a regular municipal election to be held pursuant to Article 17 of P.L.1950, c. 210 (C. 40:69A-150 et seq.).

L.1981, c. 87, s. 1, eff. March 26, 1981.

#### **40:69A-162. Candidates elected in municipalities adopting article 13 or 14**

In any municipality which has adopted article 13 or 14 of this act, the candidate for mayor, if there be one, who receives the greatest number of votes shall be elected and the number of candidates for council member equal to the number of places to be filled in the council, receiving the greatest number of votes shall be elected.

L.1950, c.210, s.17-13; amended 1989,c.221,s.14.

#### **40:69A-163. Interest in contracts or jobs forbidden**

No officer or employee elected or appointed in any municipality shall be interested directly or indirectly in any contract or job for work or materials, or the profits thereof, to be furnished or performed for the municipality, and no such officer or employee shall be interested directly or indirectly in any contract or job for work or materials or the profits thereof, to be furnished or performed, for any person operating any interurban railway, street railway, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange, or other public utility within the territorial limits of such municipality.

L.1950, c. 210, p. 509, s. 17-14, eff. June 8, 1950.

#### **40:69A-164. Franks, free passes, tickets or services; acceptance forbidden**

No officer or employee shall accept or receive, directly or indirectly, from any person operating within the territorial limits of a municipality, any interurban railway, street railway, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange or other business using or operating under a public franchise, any frank, free pass, free ticket or free service, or accept or receive, directly or indirectly,

from any person, any other service upon terms more favorable than is granted to the public generally, except that such prohibition of free transportation shall not apply to policemen or firemen in uniform. Nor shall any free service to the municipal officials heretofore provided by any franchise or ordinance be affected by this section.

L.1950, c. 210, p. 509, s. 17-15, eff. June 8, 1950.

#### **40:69A-165. Promise of office, position, employment or benefits forbidden**

No candidate for office, appointment or employment, and no officer, appointee, or employee in any municipality shall directly or indirectly give or promise any person any office, position, employment, benefit or anything of value for the purpose of influencing or obtaining the political support, aid or vote of any person, under the penalty of being disqualified to hold the office or employment to which he may be or may have been elected or appointed.

L.1950, c. 210, p. 509, s. 17-16, eff. June 8, 1950.

#### **40:69A-167. Failure to appear or testify before court, legislative committee or Governor**

If any person hereafter elected or appointed to any office or position in a municipality governed under this act shall, after lawful notice or process, willfully refuse or fail to appear before any court, any legislative committee, or the Governor, or having appeared shall refuse to testify or to answer any question regarding the property, government or affairs of the municipality, or regarding his nomination, election appointment or official conduct on the ground that his answer would tend to incriminate him, or shall refuse to waive immunity from prosecution on account of any such matter in relation to which he may be asked to testify, may be removed from office by the governing body of the municipality in its discretion. Any person removed from office pursuant to this section shall not thereafter be eligible for election or appointment to any office or employment in such municipality.

L.1950, c. 210, p. 510, s. 17-18, eff. June 8, 1950.

#### **40:69A-168. Elective officers; removal by recall petition and vote**

Any elective officer shall be subject to removal from office for cause connected with his office, after he has served at least one year, upon the filing of a recall petition and the affirmative vote of a majority of those voting on the question of removal at any general, regular municipal or special election.

L.1950, c. 210, p. 510, s. 17-19, eff. June 8, 1950.

#### **40:69A-169. Recall petition**

A recall petition shall demand the removal of a designated incumbent, shall be signed by qualified voters equal in number to at least twenty-five per centum (25%) of the registered voters of the municipality, and shall be filed with the municipal clerk. It shall set forth a statement of the cause upon which the removal is sought.

L.1950, c. 210, p. 510, s. 17-20, eff. June 8, 1950.

#### **40:69A-170. Signatures to recall petition**

The signatures to a recall petition need not all be appended to one paper but each signer shall add to his signature his place of residence giving the street and number or other sufficient designation if there shall be no street and number. One of the signers to each such paper shall take an oath before an officer competent to administer oaths that the statement therein made is true as he believes and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing the petition the municipal clerk shall complete its examination and ascertain whether or not such petition is signed by the requisite number of qualified voters, and shall attach to the petition his certificate showing the result of his examination. If by that certificate the petition is shown to be insufficient it may be amended within ten days from the date of said certificate. The municipal clerk shall, within five days after such amendment, make a similar examination and determination of the amended petition, and if the certificate shall show the same to be insufficient, it shall be returned to the person filing it without prejudice to the filing of a new petition to the same effect.

L.1950, c. 210, p. 511, s. 17-21, eff. June 8, 1950.

#### **40:69A-171. Notice to officer; recall election; notice of filing of petition**

If the petition shall be sufficient the municipal clerk shall within two days notify the mayor, councilman or councilmen whose recall is sought thereby. If such notice cannot be served personally upon the mayor, councilman or councilmen affected, service may be made by registered mail addressed to the officer's last known address. If within five days after the service of the notice by the municipal clerk the mayor, councilman or councilmen sought to be recalled by such petition do not resign, or having tendered their resignation it shall not have been accepted by the municipal council, the municipal clerk shall order and fix a date for holding a recall election not less than sixty nor more than ninety days from the filing of the petition. Notice of the filing of the petition and of the date of the election shall be posted for public view in the office of the municipal clerk and he shall also insert the notice forthwith in a newspaper published in the municipality, or if there be no such newspaper, then in a newspaper having general circulation in such municipality.

L.1950, c. 210, p. 511, s. 17-22, eff. June 8, 1950

#### **40:69A-172. Ballots**

The ballots at the recall election shall conform to the requirements respecting the election of municipal officers in the municipality, as provided in this article or in Title 19 of the Revised Statutes (Elections), whichever shall apply in the municipality in accordance with the provisions of this act, except that the words "recall election" shall appear on the ballot. The recall features of the ballot shall appear at the top thereof and shall be separated from the portion of the ballot for the election of officers by a heavy black line. The proposal for recall shall be placed on the ballot in the following manner:

"Shall (here insert name of incumbent) be removed from office by recall?" This matter shall occupy two lines in bold-face type. Immediately below the above wording shall appear the phrase "for recall," and immediately underneath such phrase the words "against recall." Immediately at the left of each of these two phrases shall be printed a square, in which the voter may make a cross ( x ) or plus ( + ) or a check ( X ) mark. Immediately below the foregoing shall appear the following:

"Indicate your vote by placing a cross ( x ) or plus ( + ) or a check ( X ) mark in one of the squares above."

L.1950, c. 210, p. 512, s. 17-23, eff. June 8, 1950.

#### **40:69A-173. Removal of more than one officer**

If the removal of more than one officer is sought the same provisions for submitting to the electors the question and direction hereinbefore described shall be repeated in the case of each officer concerned and their position on the ballot for their recall shall be in the order of the filing of the petition with the municipal clerk.

L.1950, c. 210, p. 512, s. 17-24, eff. June 8, 1950.

#### **40:69A-174. Election of successor; use of recall ballot**

The same ballot used for submitting the question or questions of recall shall be used for the election of a successor to the incumbent sought to be removed and immediately under the black line following the recall question shall appear the phrase "Nominees for successors of (here insert name of incumbent) in the event he is recalled. "The names of all persons nominated as successors shall be placed upon the ballot in the same manner provided for other elections of municipal officers in the municipality.

L.1950, c. 210, p. 513, s. 17-25, eff. June 8, 1950.

**40:69A-175. Laws governing recall elections; selection of candidate for successor of recalled incumbent**

The provisions of this article or of Title 19 of the Revised Statutes (Elections), whichever shall apply in the municipality in accordance with the provisions of this act, concerning the nomination of municipal officers, preparation of the ballot, election of municipal officers, counting and canvassing of the results of the election of such officers, shall apply to the election for the recall of officers and the election of their successors. Where the plan of government in effect in the municipality provides for partisan elections, the county committee of each political party shall be authorized to select a candidate for successor of a recalled incumbent in the same manner as provided by Title 19 of the Revised Statutes for nominations to fill a vacancy after the last day for filing petitions for nominations in the primary elections.

L.1950, c. 210, p. 513, s. 17-26, eff. June 8, 1950.

**40:69A-176. Publication of notices of arrangements for recall elections; conduct**

The municipal clerk shall cause to be made due publication of notices of arrangements for holding all recall elections and they shall be conducted as are other elections for municipal officers in the municipality.

L.1950, c. 210, p. 513, s. 17-27, eff. June 8, 1950.

**40:69A-177. Results of election**

(a) If a majority of votes in connection with the recall of any officer be in favor of the recall, the term of office of such officer shall terminate, upon the certification of the results of election by the municipal clerk.

(b) If the results of such recall election shall, by the certificate of the municipal clerk, be shown to be against the recall of the officer he shall continue in office as if no recall election had been held, and the vote for the election for the successor of such officer taken at the time of such attempted recall shall be void.

L.1950, c. 210, p. 513, s. 17-28, eff. June 8, 1950.

**40:69A-178. Successor where incumbent resigns or is recalled**

If the office of the incumbent shall become vacant either by his resignation or by the result of the recall election, his successor shall be the nominee receiving the greatest number of votes at the recall election. The person so elected shall serve for the remainder of the unexpired term.

L.1950, c. 210, p. 514, s. 17-29, eff. June 8, 1950.



#### **40:69A-179. Meetings of council; journal**

The council shall by ordinance or resolution designate the time of holding regular meetings, which shall be at least monthly. The mayor may, and upon written request of a majority of the members of the council, shall, call a special meeting of the council. In the call he shall designate the purpose of the special meeting and no other business shall be considered. All meetings of the council shall be open to the public. The municipal clerk shall keep a journal of its proceedings and record the minutes of every meeting.

L.1950, c. 210, p. 514, s. 17-30, eff. June 8, 1950.

#### **40:69A-180. Rules of procedure; quorum; ordinances and resolutions; presiding officer; compensation**

(a) Council shall determine its own rules of procedure, not inconsistent with ordinance or statute. A majority of the whole number of members of the council shall constitute a quorum, but no ordinance shall be adopted by the council without the affirmative vote of a majority of all the members of the council.

(b) Each ordinance or resolution shall be introduced in written or typewritten form and shall be read and considered as provided by general law. The vote upon every motion, resolution or ordinance shall be taken by roll call and the yeas and nays shall be entered on the minutes. The minutes of each meeting shall be signed by the officer presiding at such meeting and by the municipal clerk.

(c) The council at its organization meeting shall elect a president of the council from among the members thereof and the president shall preside at its meetings and perform such other duties as the council may prescribe. In the absence of the president, the council shall elect a temporary presiding officer. The compensation of the mayor, council members and department heads shall be fixed by the council immediately after its organization.

L.1950, c.210, s.17-31; amended 1954, c.69, s.5; 1989, c.221, s.15.

#### **40:69A-181. Adoption and publication of ordinances; effective date**

(a) Except as may otherwise be provided in this act, all ordinances shall be adopted and published in the manner required by general law; provided, however, that any ordinance may incorporate by reference any standard technical regulations or code, official or unofficial, which need not be so published whenever ten copies of said regulations or code have been placed on file in the office of the municipal clerk and in the office of the body or department charged with the enforcement of said ordinance for the examination of the public so long as said ordinance is in effect.

(b) No ordinance other than the local budget ordinance shall take effect less than twenty days after its final passage by council and approval by the mayor where such approval is required, unless the council shall adopt a resolution declaring an emergency and at least two-thirds of all the members of the council vote in favor of such resolution.

L.1950, c. 210, p. 514, s. 17-32, eff. June 8, 1950.

#### **40:69A-182. Recording of ordinances and resolutions**

The municipal clerk shall record all ordinances and resolutions adopted by council and at the close of each year, with the advice and assistance of the municipal attorney, shall bind, compile or codify all the ordinances and resolutions, or true copies thereof, of the municipality which then remain in force and effect. He shall also properly index the record books, compilation or codification of ordinances and resolutions.

L.1950, c. 210, p. 515, s. 17-33, eff. June 8, 1950.

#### **40:69A-183. Rules and regulations; filing; publication**

No rule or regulation made by any department, officer, agency or authority of the municipality, except such as relates to the organization or internal management of the municipal government or a part thereof, shall take effect until it is filed either with the municipal clerk or in such other manner as may be provided by ordinance. The council shall provide for the prompt publication of such rules and regulations.

L.1950, c. 210, p. 515, s. 17-34, eff. June 8, 1950.

#### **40:69A-184. Petition; percentage of legal voters required**

The voters of any municipality may propose any ordinance and may adopt or reject the same at the polls, such power being known as the initiative. Any initiated ordinance may be submitted to the municipal council by a petition signed by a number of the legal voters of the municipality equal in number to at least 15% of the total votes cast in the municipality at the last election at which members of the General Assembly were elected. An initiated ordinance may be submitted to the municipal council by a number of the legal voters of the municipality equal in number to at least 10% but less than 15% of the total votes cast in the municipality at the last election at which members of the General Assembly were elected, subject to the restrictions set forth in section 17-43 (C. 40:69A-192) of this act.

L.1950, c. 210, p. 515, s. 17-35. Amended by L.1951, c. 306, p. 1107, s. 1, eff. July 13, 1951; L.1982, c. 145, s. 1, eff. Sept. 28, 1982.

#### **40:69A-185. Power of referendum; time for filing petition**

The voters shall also have the power of referendum which is the power to approve or reject at the polls any ordinance submitted by the council to the voters or any ordinance passed by the council, against which a referendum petition has been filed as herein provided. No ordinance passed by the municipal council, except when otherwise required by general law or permitted by the provisions of section 17-32(b) of this act, shall take effect before twenty days from the time of its final passage and its approval by the mayor where such approval is required. If within twenty days after such final passage and approval of such ordinance a petition protesting against the passage of such ordinance shall be filed with the municipal clerk and if the petition shall be signed by a number of the legal voters of the municipality equal in number to at least 15% of the total votes cast in the municipality at the last election at which members of the General Assembly were elected, the ordinance shall be suspended from taking effect until proceedings are had as herein provided.

The provisions of this section shall not apply to any ordinance which by its terms or by law cannot become effective in the municipality unless submitted to the voters, or which by its terms authorizes a referendum in the municipality concerning the subject matter thereof.

L.1950, c. 210, p. 516, s. 17-36. Amended by L.1951, c. 306, p. 1107, s. 2, eff. July 13, 1951; L.1979, c. 278, s. 2; L.1982, c. 145, s. 2, eff. Sept. 28, 1982.

#### **40:69A-186. Petition papers; affidavits**

All petition papers circulated for the purposes of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition paper the names and addresses of five voters, designated as the Committee of the Petitioners, who shall be regarded as responsible for the circulation and filing of the petition and for its possible withdrawal as hereinafter provided. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that all the signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

L.1950, c. 210, p. 516, s. 17-37, eff. June 8, 1950.

#### **40:69A-187. Filing of petition papers; examination; certification of result**

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the municipal clerk as one instrument. Within twenty days after a petition is filed, the municipal clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified voters. After completing his examination of the petition, the municipal clerk shall certify the result thereof to the council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify at least two members of the Committee of the Petitioners of his findings.

L.1950, c. 210, p. 517, s. 17-38, eff. June 8, 1950.

#### **40:69A-188. Amendment of initiative or referendum petition**

An initiative or referendum petition may be amended at any time within ten days after the notification of insufficiency has been served by the municipal clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The municipal clerk shall, within five days after such an amendment is filed, examine the amended petition and, if the petition be still insufficient, he shall file his certificate to that effect in his office and notify the Committee of the Petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

L.1950, c. 210, p. 517, s. 17-39, eff. June 8, 1950.

#### **40:69A-189. Suspension of ordinance**

Upon the filing of a referendum petition with the municipal clerk, the ordinance shall be suspended until ten days following a finding by the municipal clerk that the petition is insufficient or, if an amended petition be filed, until five days thereafter; or, if the petition or amended petition be found to be sufficient, until it be withdrawn by the Committee of the Petitioners or until repeal of the ordinance by vote of the council or approval or disapproval of the ordinance by the voters.

L.1950, c. 210, p. 518, s. 17-40, eff. June 8, 1950.

#### **40:69A-190. Submission to municipal council**

Upon a finding by the municipal clerk that any petition or amended petition filed with him in accordance with this act is sufficient, the clerk shall submit the same to the

municipal council without delay. An initiative ordinance so submitted shall be deemed to have had first reading and provision shall be made for a public hearing.

L.1950, c. 210, p. 518, s. 17-41, eff. June 8, 1950.

#### **40:69A-191. Submission of ordinance to voters; withdrawal of petition**

If within 20 days of the submission of a certified petition by the municipal clerk the council shall fail to pass an ordinance requested by an initiative petition in substantially the form requested or to repeal an ordinance as requested by a referendum petition, the municipal clerk shall submit the ordinance to the voters unless, within 10 days after final adverse action by the council or after the expiration of the time allowed for such action, as the case may be, a paper signed by at least four of the five members of the Committee of the Petitioners shall be filed with the municipal clerk requesting that the petition be withdrawn. Upon the filing of such a request, the original petition shall cease to have any force or effect.

L.1950, c. 210, p. 518, s. 17-42, eff. June 8, 1950. Amended by L.1982, c. 145, s. 3, eff. Sept. 28, 1982.

#### **40:69A-192. Timing of election at which submitted to voters**

a. Any ordinance to be voted on by the voters in accordance with section 17-36 or section 17-42 of this act (C.40:69A-185 or C.40:69A-191) shall be submitted at the next general or regular municipal election occurring not less than 40 days after the final date for withdrawal of the petition as provided for in section 17-42 of this act (C.40:69A-191), provided that if no such election is to be held within 90 days the council shall provide for a special election to be held not less than 40 nor more than 60 days from the final date for withdrawal of the petition as provided for in section 17-42 (C.40:69A-191) of this act.

b. In the case of an initiated petition signed by not less than 10% nor more than 15% of the legal voters, the ordinance shall be submitted at the next general or regular municipal election occurring not less than 40 days after the final date of withdrawal of the petition as provided for in section 17-42 (C.40:69A-191) of this act.

c. In any instance where a referendum election is to be held as a result of an ordinance of the council which by its terms or by law cannot become effective in the municipality unless submitted to the voters, or which by its terms authorizes a referendum in the municipality concerning the subject matter thereof, the time for submission of the question to the voters shall be at the next general or regular municipal election occurring not less than 40 days from the date of final passage and approval of the ordinance. Referenda held on ordinances adopted pursuant to sections 7 through 11 of P.L.1981, c.465 (C.40:69A-25.1 through 40:69A-25.5) shall be governed by this subsection, except that if the referendum is held pursuant to those sections as the result of the report of a charter study commission, the time for submission of the question shall be calculated from the date of that report.

L.1950,c.210,s.17-43; amended 1982,c.145,s.4; 1991,c.430,s.5.

**40:69A-193. Number of proposed ordinances voted upon; time between special elections**

Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this article, but there shall not be more than one special election in any period of 6 months for such purpose.

During that 6 month period, any ordinance which would otherwise be submitted to the voters at a special election if one were not already scheduled, shall be submitted at the scheduled special election if at least 30 days shall remain prior thereto from the final date for withdrawal of the petition, otherwise, the ordinance shall be submitted at the next general election or regular municipal election, whichever shall first occur.

L.1950, c. 210, p. 519, s. 17-44, eff. June 8, 1950. Amended by L.1982, c. 145, s. 5, eff. Sept. 28, 1982.

**40:69A-194. Publication of ordinance**

Whenever an ordinance is to be submitted to the voters of the municipality at any election in accordance with this article, the clerk shall cause the ordinance to be published in at least two of the newspapers published or circulated in the municipality. The publication shall be not more than twenty nor less than five days before the submission of the ordinance or proposition to be voted on.

L.1950, c. 210, p. 519, s. 17-45, eff. June 8, 1950.

**40:69A-195. Ballots**

The ballots to be used at such election shall be in substantially the following form:

“To vote upon the public question printed below, if in favor thereof mark a cross (X) or plus (+) or check (/) in the square at the left of the word Yes, and if opposed thereto mark a cross (X) or plus (+) or a check (/) in the square to the left of the word No.”

"Shall the ordinance .....

Yes. (indicate whether submitted by council or initiative or referendum petition)  
providing

No. for ..... (here state nature of proposed ordinance or  
proposition) be adopted?"

L.1950, c. 210, p. 519, s. 17-46, eff. June 8, 1950.

**40:69A-196. Results of election; majority vote for adoption; amendment or repeal within 3 years; conflicting measures**

If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the municipality and be published as in the case of other ordinances. No such ordinance shall be amended or repealed within 3 years immediately following the date of its adoption by the voters, except by a vote of the people. The council may, within 3 years immediately following the date of adoption of the ordinance, submit a proposition for the repeal or amendment of that ordinance to the voters at any succeeding general election or regular municipal election. If the proposition submitted shall receive a majority of the votes cast at that election, the ordinance shall be repealed or amended accordingly. If the provisions of two or more measures approved or adopted at the same election conflict then the measure receiving the greatest affirmative vote shall control.

L.1950, c. 210, p. 519, s. 17-47, eff. June 8, 1950. Amended by L.1982, c. 145, s. 6, eff. Sept. 28, 1982.

**40:69A-205. Schedule of installation of optional plan adopted**

The schedule of installation of an optional plan adopted pursuant to this act shall, as provided herein, take the following course:

- (a) An election to submit the question of adoption of an optional plan may be held at any time in accordance with the provisions of article 1 of this act;
- (b) In the event of a favorable vote of the voters at the above election, the first election of officers under the adopted plan shall take place on (1) the second Tuesday in May occurring not less than 75 days next following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of regular municipal elections at which all members of the council are to be elected at large; (2) the second Tuesday in May occurring not less than 120 days following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of regular municipal elections and for the division of the municipality into wards; (3) at the next general election occurring not less than 75 days next following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of general elections at which all members of the council are to be elected at large; or (4) at the next general election occurring not less than 120 days next following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of general elections and for the division of the municipality into wards.

Whenever a municipality has adopted a charter referred to in subsection (3) above, within 10 days, or subsection (4) within 40 days, prior to the last day fixed for the filing of nominating petitions for the primary election, the candidates to be first elected shall be nominated in the manner provided by chapter 27 of Title 19 of the Revised Statutes with respect to the filling of certain vacancies in nominations for county or municipal offices to be filled at the general election.

(c) An optional plan shall take effect, in accordance with the further provisions of this article at (1) 12 o'clock noon on July 1 next following the first election of officers in municipalities adopting a charter providing for the holding of regular municipal elections, or (2) 12 o'clock noon on January 1 next following the first election of officers in municipalities adopting a charter providing for the holding of general elections.

L.1950, c. 210, p. 521, s. 17-56. Amended by L.1953, c. 254, p. 1750, s. 15; L.1973, c. 234, s. 6, eff. Oct. 24, 1973; L.1981, c. 465, s. 37, eff. Jan. 9, 1982.

#### **40:69A-206. Charters, amendments and supplements superseded; existing ordinances and resolutions remain in force where not inconsistent**

Upon the effective date of an optional charter adopted pursuant to this act, any other charter and its amendments and supplements theretofore applicable to the municipality shall be superseded with respect to such municipality. All ordinances and resolutions of the municipality to the extent that they are not inconsistent with the provisions of this act shall remain in full force and effect until modified or repealed as provided by law.

L.1950, c. 210, p. 522, s. 17-57, eff. June 8, 1950.

#### **40:69A-207. Offices abolished on effective date of plan; administrative code**

a. At 12 o'clock noon on the effective date of an optional plan adopted pursuant to this act, all offices then existing in such municipality shall be abolished and the terms of all elected and appointed officers shall immediately cease and determine; provided, that nothing in this section shall be construed to abolish the office or terminate the term of office of any member of the board of education, board of fire commissioners of a township fire district, trustees of the free public library, commissioners of a local housing authority, members of a municipal shade tree commission, board of managers of a municipal hospital, municipal magistrates or of any official or employee now protected by any tenure of office law, or of any policeman, fireman, teacher, principal or school superintendent whether or not protected by a tenure of office law. If the municipality is operating under the provisions of Title 11 of the Revised Statutes (Civil Service) at the time of the adoption of an optional plan under this act, nothing herein contained shall affect the tenure of office of any person holding any position or office coming within the provisions of said Title 11 as it applies to said officers and employees. If the municipal clerk has, prior to the effective date of the optional plan, acquired a protected tenure of office pursuant to law, he shall become the first municipal clerk under the optional plan.

b. Provision for officers and for the organization and administration of the municipal government under the optional plan may be made by an interim resolution pending the adoption of an administrative code.



c. Within 90 days after the date of organization of the first municipal council elected under the optional plan, the municipal governing body shall adopt, by ordinance, an administrative code organizing the administration of the municipal government, setting forth the duties, responsibilities and powers of all municipal officers, departments and agencies, and establishing the manner of performance thereof.

The code shall restate the major provisions of the municipal charter and the applicable sections of general law, and provide such additional details as are necessary to present a complete guide describing: the municipal offices; how municipal officers are selected; how municipal departments, divisions, boards, commissions, and agencies are organized; lines of supervisory responsibility and accountability; and procedures to be followed to carry out the functions and activities of the municipal government.

d. The administrative code shall take effect 30 days after its adoption. Thereupon, all municipal offices, departments, divisions, boards, commissions, and agencies shall assume the form, perform the duties and responsibilities, and exercise the powers granted under the administrative code in the manner prescribed therein.

e. The administrative code may be amended or supplemented from time to time by ordinance, subject to the provisions of law.

L.1950,c.210,s.17-58; amended 1954,c.69,s.6; 1967,c.127; 1971,c.268,s.2; 1977,c.392; 1991,c.430,s.6.

#### **40:69A-207.1. Local industrial commissions; continuance or reestablishment**

The governing body of any municipality governed by a form of government authorized by the "Optional Municipal Charter Law" may by ordinance provide for the continuance or reestablishment, as the case may be, of any local industrial commission which was established in said municipality pursuant to P.L.1962, c. 96 (C. 40:106-1(123) to 40:106-1(132)) and which commission was performing its functions, powers and duties under said law immediately prior to the adoption by the municipality of its form of government under the Optional Municipal Charter Law.

L.1972, c. 170, s. 1, eff. Nov. 3, 1972.

#### **40:69A-208. Appointments between election and time of taking office under optional plan; pending actions and proceedings**

(a) No subordinate board, department, body, office, position or employment shall be created and no appointments shall be made to any subordinate board, department or body, or to any office, employment or position, including without limitation patrolmen and firemen, between the date of election of officers and the date the newly elected officers take office under any optional plan.

(b) All actions and proceedings of a legislative, executive or judicial character which are pending upon the effective date of an optional plan adopted pursuant to this act may continue, and the appropriate officer or employee under such optional plan shall be substituted for the officer or employee theretofore exercising or discharging the function, power or duty involved in such action or proceeding.

L.1950, c. 210, p. 523, s. 17-59. Amended by L.1954, c. 69, p. 428, s. 7, eff. June 24, 1954.

**40:69A-208.1. Continuance of charter adopted prior to Jan. 9, 1982 of municipality with mayor-council plan**

Any municipality having adopted, prior to the effective date of this amendatory and supplementary act, a charter encompassing a mayor-council plan of government heretofore authorized pursuant to P.L.1950, c. 210 shall continue to be governed, after the effective date of this act, by the charter and plan of government so adopted, until such time as the charter is abandoned or altered pursuant to article 1 of that act (C. 40:69A-1 through 40:69A-25), or amended pursuant to section 7 of this amendatory and supplementary act. During such time as the municipality shall continue to be governed by that charter, any provisions of, or supplements to, P.L.1950, c. 210 enacted or amended after the effective date of this amendatory and supplementary act, which would have pertained to that charter if the provisions of this amendatory and supplementary act had not been enacted, shall pertain to that charter and govern that municipality.

L.1981, c. 465, s. 20, eff. Jan. 9, 1982.

**40:69A-208.2. Continuance of charter adopted prior to Jan. 9, 1982 of municipality with council-manager plan**

Any municipality having adopted, prior to the effective date of this amendatory and supplementary act, a charter encompassing a council-manager plan of government heretofore authorized pursuant to P.L.1950, c. 210 shall continue to be governed, after the effective date of this act, by the charter and plan of government so adopted, until such time as the charter is abandoned or altered pursuant to article 1 of that act (C. 40:69A-1 through 40:69A-25), or amended pursuant to section 7 of this amendatory and supplementary act. During such time as the municipality shall continue to be governed by that charter, any provisions of, or supplements to, P.L.1950, c. 210 enacted or amended after the effective date of this amendatory and supplementary act, which would have pertained to that charter if the provisions of this amendatory and supplementary act had not been enacted, shall pertain to that charter and govern that municipality.

L.1981, c. 465, s. 28, eff. Jan. 9, 1982.

**40:69A-208.3. Continuance of charter adopted prior to Jan. 9, 1982 of municipality with small municipality plan**

Any municipality having adopted, prior to the effective date of this amendatory and supplementary act, a charter encompassing a small municipality plan of government heretofore authorized pursuant to P.L.1950, c. 210 shall continue to be governed, after the effective date of this amendatory and supplementary act, by the charter and plan of government so adopted, until such time as the charter is abandoned or altered pursuant to article 1 of P.L.1950, c. 210 (C. 40:69A-1 through 40:69A-25), or amended pursuant to section 7 of this amendatory and supplementary act. During such time as the municipality shall continue to be governed by that charter, any provisions of, or supplements to P.L.1950, c. 210 enacted or amended after the effective date of this amendatory and supplementary act, which would have pertained to that charter if the provisions of this amendatory and supplementary act had not been enacted, shall pertain to that charter and govern that municipality.

L.1981, c. 465, s. 35, eff. Jan. 9, 1982.

**40:69A-209. Partial invalidity**

If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have rendered.

L.1950, c. 210, p. 523, s. 17-60, eff. June 8, 1950.

**40:69A-210. Short title**

This act shall be known as the Optional Municipal Charter Law.

L.1950, c. 210, p. 524, s. 17-61, eff. June 8, 1950.